

City Council

Bob Wasserman, Mayor
Bob Wieckowski, Vice Mayor
Anu Natarajan
Bill Harrison
Suzanne Lee Chan

City Staff

Fred Diaz, City Manager
Harvey E. Levine, City Attorney
Melissa Stevenson Dile, Assistant City Manager

Dawn G. Abrahamson, City Clerk
Harriet Commons, Finance Director
Marilyn Crane, Information Technology Svcs. Dir.
Mary Kaye Fisher, Interim Human Resources Dir.
Annabell Holland, Parks & Recreation Dir.
Norm Hughes, City Engineer
Jill Keimach, Community Dev. Director
Bruce Martin, Fire Chief
Jim Pierson, Transportation & Ops Director
Jeff Schwob, Planning Director
Suzanne Shenfil, Human Services Director
Craig Steckler, Chief of Police
Lori Taylor, Economic Dev. Director
Elisa Tierney, Redevelopment Director

City Council Agenda and Report [Redevelopment Agency of Fremont]

Work Session 5:30 p.m. (Please note time change)

Regular Meeting 7:00 p.m.

General Order of Business

- 1. Preliminary
 - Call to Order-5:30 p.m.
 - Salute to the Flag
 - Roll Call
- 2. Work Session Items
- 3. Consent Calendar
- 4. Ceremonial Items
- 5. Public Communications
- 6. Scheduled Items
- 7. Report from City Attorney
- 8. Other Business
- 9. Council Communications
- 10. Adjournment

Order of Discussion

Generally, the order of discussion after introduction of an item by the Mayor will include comments and information by staff followed by City Council questions and inquiries. The applicant, or their authorized representative, or interested citizens, may then speak on the item; each speaker may only speak once to each item. At the close of public discussion, the item will be considered by the City Council and action taken. Items on the agenda may be moved from the order listed.

Consent Calendar

Items on the Consent Calendar are considered to be routine by the City Council and will be enacted by one motion and one vote. There will be no separate discussion of these items unless a Councilmember or citizen so requests, in which case the item will be removed from the Consent Calendar and considered separately. Additionally, other items without a "Request to Address the City Council" card in opposition may be added to the consent calendar. The City Attorney will read the title of ordinances to be adopted.

Agenda and Report • Fremont City Council Meeting • June 15, 2010



Addressing the Council

Any person may speak once on any item under discussion by the City Council after receiving recognition by the Mayor. Speaker cards will be available prior to and during the meeting. To address City Council, a card must be submitted to the City Clerk indicating name, address and the number of the item upon which a person wishes to speak. When addressing the City Council, please walk to the lectern located in front of the City Council. State your name. In order to ensure all persons have the opportunity to speak, a time limit will be set by the Mayor for each speaker (see instructions on speaker card). In the interest of time, each speaker may only speak once on each individual agenda item; please limit your comments to new material; do not repeat what a prior speaker has said.

Oral Communications

Any person desiring to speak on a matter which is not scheduled on this agenda may do so under the Oral Communications section of Public Communications. Please submit your speaker card to the City Clerk prior to the commencement of Oral Communications. Only those who have submitted cards prior to the beginning of Oral Communications will be permitted to speak. Please be aware the California Government Code prohibits the City Council from taking any immediate action on an item which does not appear on the agenda, unless the item meets stringent statutory requirements. The Mayor will limit the length of your presentation (see instructions on speaker card) and each speaker may only speak once on each agenda item.

To leave a voice message for all Councilmembers and the Mayor simultaneously, dial 284-4080.

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Information

Copies of the Agenda and Report are available in the lobbies of the Fremont City Hall, 3300 Capitol Avenue and the Development Services Center, 39550 Liberty Street, on Friday preceding a regularly scheduled City Council meeting. Supplemental documents relating to specific agenda items are available at the Office of the City Clerk.

The regular meetings of the Fremont City Council are broadcast on Cable Television Channel 27 and can be seen via webcast on our website (www.Fremont.gov).

Assistance will be provided to those requiring accommodations for disabilities in compliance with the Americans with Disabilities Act of 1990. Interested persons must request the accommodation at least 2 working days in advance of the meeting by contacting the City Clerk at (510) 284-4060. Council meetings are *open captioned* for the deaf in the Council Chambers and *closed captioned* for home viewing.

Availability of Public Records

All disclosable public records relating to an open session item on this agenda that are distributed by the City to all or a majority of the City Council less than 72 hours prior to the meeting will be available for public inspection in specifically labeled binders located in the lobby of Fremont City Hall, 3300 Capitol Avenue during normal business hours, at the time the records are distributed to the City Council.

Information about the City or items scheduled on the Agenda and Report may be referred to:

Address: City Clerk

City of Fremont

3300 Capitol Avenue, Bldg. A

Fremont, California 94538

Telephone: (510) 284-4060

Your interest in the conduct of your City's business is appreciated.

AGENDA FREMONT CITY COUNCIL WORK SESSION AND REGULAR MEETING AGENDA JUNE 15, 2010 COUNCIL CHAMBERS, 3300 CAPITOL AVE., BUILDING A

5:30 P.M. Work Session (Please note time change) 7:00 P.M. Regular Meeting

1. PRELIMINARY

- 1.1 Call to Order
- 1.2 Salute the Flag
- 1.3 Roll Call
- 1.4 Announcements by Mayor / City Manager

2. WORK SESSION ITEMS

Times Are Approximate 5:30 p.m.

2.1 PATTERSON RANCH DEVELOPMENT PLAN

Contact Person:

Name: Scott Ruhland Jill Keimach

Title: Associate Planner Director, Community Development

Dept.: Community Development Community Development

Phone: 510-494-4453 510-494-4767

E-Mail: sruhland@fremont.gov jkeimach@fremont.gov

Public Comment

REGULAR CITY COUNCIL MEETING ITEMS

7:00 p.m.

3. CONSENT CALENDAR

Items on the Consent Calendar are considered to be routine by the City Council and will be enacted by one motion and one vote. There will be no separate discussion of these items unless a Councilmember or citizen so requests, in which event the item will be removed from the Consent Calendar and considered separately. Additionally, other items without a "Request to Address Council" card in opposition may be added to the consent calendar. The City Attorney will read the title of ordinances to be adopted.

- 3.1 Motion to Waive Further Reading of Proposed Ordinances (This permits reading the title only in lieu of reciting the entire text.)
- *3.2 Approval of Minutes None.*
- 3.3 Second Reading and Adoption of an Ordinance of the City of Fremont Amending Fremont Municipal Code Title VIII, Chapter 2, Article 21, Adopting Freeway-Oriented Sign Regulations for the Industrial Area Portion of the Fremont Merged Redevelopment Project Area and Related Changes

RECOMMENDATION: Adopt ordinance.

3.4 AUTHORIZATION TO ENTER INTO MEMORANDUM OF UNDERSTANDING TO ACCEPT UASI GRANT FUNDS AND MAKE ASSOCIATED PURCHASES Authorization to enter into a Memorandum of Understanding with the City and County of San Francisco as Fiscal Agent for the Urban Area Security Initiative (UASI) Grant Program to Accept UASI Grant Funds and Make Associated Purchases

Contact Person:

Name:Kelly SessionsBruce MartinTitle:Business ManagerFire Chief

Dept.: Fire Fire

Phone: 510-494-4281 510-494-4202

E-Mail: ksessions@fremont.gov bmartin@fremont.gov

RECOMMENDATION: Authorize the City Manager or designee to enter into an agreement with the City and County of San Francisco to apply for, accept and appropriate 2008 UASI grant funds totaling \$121,500 to Fiscal Year 2009/10 to Fund 199 (Misc. Federal Grants), and to spend those funds on the training and equipment as proposed.

3.5 REFERRAL FROM RECREATION COMMISSION TO ACCEPT MEASURE WW PARK BOND GRANTS FROM EAST BAY REGIONAL PARK DISTRICT AND APPROPRIATE FUNDS TO PROJECTS

Accept Two Grants from the East Bay Regional Park District Measure WW Local Grants Program and Appropriate \$2,682,258 in Funds to the Measure WW Citywide Play Area Upgrade Project and \$488,386 in Funds to the Measure WW Tiny Tots Play Area Upgrades Project

Contact Person:

Name: Roger Ravenstad Annabell Holland

Title: Senior Landscape Architect Director

Dept.: Community Development Parks and Recreation

Phone: 510-494-4723 510-494-4329

E-Mail: rravenstad@fremont.gov aholland@fremont.gov

RECOMMENDATION:

- Accept \$2,682,258 in grant funds from the Measure WW Local Grants Program and appropriate funds in the grant amount to 513PWC8733, Measure WW Citywide Play Area Upgrade Project.
- 2. Accept \$488,386 in grant funds from the Measure WW Local Grants Program and appropriate funds in the grant amount to 513 PWC 9732, Measure WW Tiny Tots Play Area Upgrade Project.
- 3. Transfer \$200,000 from Capital Improvement Projects Emerging Projects Reserves 540PWC7101 to 540PWC8733, Measure WW Citywide Play Area *Upgrade Project.*
- Transfer \$40,000 from Capital Improvement Projects Emerging Projects 4. Reserve 540PWC7101 to 540PWC8732, Measure WW Citywide Play Area *Upgrade Project.*
- 3.6 AMENDMENT TO PARKING AND ADMINISTRATIVE REMEDY ORDINANCE CITATION PROCESSING AND COLLECTIONS SERVICES CONTRACT Authorize City Manager to Sign Amendment to FY 2009/10 and 2010/11 Contract with Data Ticket, Inc., for Parking and ARO Citation Processing and Collection Services

Contact Person:

Name: Geneva Bosques Mark Riggs Title: Management Analyst II Lieutenant Dept.: *Police* Police

510-790-6957 510-790-6913 Phone:

E-Mail: gbosques@fremont.gov mriggs@fremont.gov

RECOMMENDATION: Authorize the City Manager or his designee to amend and increase the "not to exceed" provision of the contract to \$120,000 with Data Ticket, Inc., for parking and ARO citation processing and collection services in FY 2009/10 and FY 2010/11.

3.7 CITATION HEARING SERVICES CONTRACT AMENDMENT Authorize City Manager to Execute an Amendment to FY 2010/11 Contract with Data Ticket, Inc. for Parking and ARO Citation Hearing Services

Contact Person:

Name: Geneva Bosques Mark Riggs Title: Management Analyst II Lieutenant Dept.: Police Police

Phone: 510-790-6957 510-790-6913

E-Mail: gbosques@fremont.gov mriggs@fremont.gov

RECOMMENDATION: Authorize the City Manager or his designee to execute an amendment extending the contract with Data Ticket, Inc., for parking and ARO citation hearing services in an amount not to exceed \$30,000 annually for one year, to *expire on June 30, 2011.*

3.8 PARTIAL RELEASE OF IMPROVEMENT SECURITY, TRACT 7862, 42055 BLACOW ROAD

Approval of the Partial Release of Improvement Security Required by the Private Improvement Agreement for Tract 7862, Based on the Partial Completion of Improvements

Contact Person:

Name: Jayson Imai Norm Hughes Title: Associate Civil Engineer City Engineer

Dept.: Community Development Community Development

Phone: 510-494-4732 510-494-4748

E-Mail: jimai@fremont.gov nhughes@fremont.gov

RECOMMENDATION: Approve the partial release of improvement security for Tract 7862 private improvements in the amount of \$1,803,000, retaining \$1,202,000 in security until acceptance of the private improvements by the City Engineer.

3.9 CASH RECEIPTING HARDWARE AND SOFTWARE

Authorize the City Manager or Designee to Issue a Purchase Order to The Active Network, Inc., and Execute an Agreement and Any Implementing Documents for the Purchase of a Cash Receipting System

Contact Person:

Name:Don DormanHarriet CommonsTitle:Business ManagerFinance Director

Dept.: Community Development Finance
Phone: 510-494-4730 510-284-4010

E-Mail: ddorman@fremont.gov hcommons@fremont.gov

RECOMMENDATION: Approve a solicitation exception as described in the staff report and authorize the City Manager or designee to issue a purchase order to The Active Network, Inc., and execute any and all documents to purchase a cash receipting system in an amount not-to-exceed \$99,584.

3.10 NILES UNION PACIFIC SITE PHASE 2 REMEDIATION PROJECT CONTRACT AWARD

Approval of Plans and Specifications and Award of Contract for the Niles Union Pacific Site Phase 2 Remediation Project, City Project No. 8700 (PWC)

Contact Person:

Name: Josh Huber Norm Hughes
Title: Redevelopment Project Manager City Engineer

Dept.: Office of Housing and Redevelopment Community Development

Phone: 510-494-4513 510-494-4748

E-Mail: jhuber@fremont.gov nhughes@fremont.gov

RECOMMENDATIONS:

- 1. Hold a Public Hearing.
- 2. Adopt the Negative Declaration (Exhibit "A") based on the whole of the record that the proposed project has no potential for a significant impact on the environment and that this finding reflects the independent judgment of the City of Fremont.
- 3. Approve Plans and Specifications for the Niles UP Site Phase 2 Remediation Project.
- 4. Award a contract for the Niles UP Site Phase 2 Remediation Project (City Project No. 8700 PWC), to Pacific States Environmental Contractors, Inc. in the amount of \$1,912,177.00; and authorize the City Manager, or designee, to execute the contract.
- 5. Approve transfer of \$200,000 in EPA grant funds from 199PWC8639 to 199PWC8700.

3.11 AUTHORIZATION TO RESUBMIT GRANT APPLICATIONS FOR PROPOSITION 1B STATE INFRASTUCTURE GRANTS

Authorization for the City Manager to Resubmit Highway-Railroad Crossing Safety Account Program Grant Applications for Railroad Grade Separations at Warren Avenue and Kato Road

Contact Person:

Name: Kunle Odumade Jim Pierson Title: Transportation Engineer Director

Dept.: Transportation and Operations Transportation and Operations

Phone: 510-494-4746 510-494-4722

E-Mail: kodumade@fremont.gov jpierson@fremont.gov

RECOMMENDATION: Authorize the City Manager or his designee to file Highway-Railroad Crossing Safety Account Program grant applications and any other required supporting documents for the Warren Avenue and Kato Road grade separations, and authorize the City Manager or designee to approve any grant agreements required and any modifications to existing agreements between the City and VTA as long as it does not require the City to commit resources beyond those previously committed by the City in the prior agreements.

3.12 PUBLIC SAFETY CAPITAL PROJECTS FUNDING PLAN

Approval of Public Safety Capital Projects (Fire Bond Program, Fire Station 11, and Police Seismic Retrofit) Funding Plan, Budget Clean-up, and Appropriations

Contact Person:

Name: Rob Kalkbrenner Bruce Martin
Title: Fire Bond Project Manager Fire Chief
Dept.: Community Development Fire Departm

Dept.: Community Development Fire Department Phone: 510-494-4428 510-494-4202

E-Mail: rkalkbrenner@fremont.gov bmartin@fremont.gov

RECOMMENDATION:

- Approve the following cleanup items:
 - Release 501PWC7838 Fire Station #8 appropriation by \$197,996.12 and appropriate \$197,996.12 to Fire Bond 213PWC7838 Fire Station #8
 - Release appropriation of \$761,667.80 on 501PWC8526 CIP Fire Bond b. Reserve and close project
 - Appropriate and approve transfer of \$959,663.92 from Capital c. *Improvement fund 501 to Budget Uncertainty Reserve (Fund 007).*
- Appropriate \$2,265,000 of estimated revenues from the sale of the one acre 2. parcel adjacent to Fire Station #6 that was previously acquired with Fire Bond proceeds, as follows: (a) \$1,090,000 for 501PWC8741 Public Safety Capital Improvements project and (b) \$1,175,000 for 501PWC8649 Police Seismic Retrofit project.
- 3. Approve the transfer of the remaining \$1,285,000 of Fire Bond proceeds originally appropriated for 213PWC8557 Training Center project to 213PWC8649 Police Seismic Retrofit project.
- Approve the transfer of the \$1,200,000 of 2008 Variable Rate COP debt 4. proceeds originally appropriated for 599PWC8683 Fire Station #11 project to 599PWC8649 Police Seismic Retrofit project for \$1,125,000 and to various art *projects for \$75,000.*
- 3.13 POLICE DEPARTMENT SEISMIC RETROFIT PROJECT CONTRACT AWARD Approval of Plans and Specifications and Award of Contract to the Lowest Responsible Bidder for the Police Department Seismic Retrofit Project, City Project No. PWC 8649

Contact Person:

Name: Joel Pullen Robert Kalkbrenner

Title: Civic Facilities Project Mgr. Civic Facilities Development

Services Mgr.

Community Development Community Development Dept.:

510-494-4436 510-494-4428 Phone:

jpullen@fremont.gov rkalkbrenner@fremont.gov E-Mail:

RECOMMENDATIONS:

- Find that this project is categorically exempt from CEQA per section 15301, existing facilities.
- 2. Approve plans and specifications for the Fremont Police Department Seismic Retrofit Project,
- 3. Appropriate a total of \$2,375,000 in remainder funds from Measure R of 2002 and funds from the sale of Fire St. #6 one acre parcel to PWC8649.
- Appropriate the sale of \$6,625,000 in Certificates of Participation to 4. 599PWC8649 (\$1,125,000 from the 2008 Variable Rate COPs surplus proceeds and \$5,500,000 from new COPs to be issued pursuant to later authorization from the City Council).
- 5. Award a contract for the Fremont Police Department Seismic Retrofit Project

- (City Project No. 8649 PWC) to Cal Pacific Construction, Inc., in the amount of \$5,221,000, and authorize the City Manager, or designee, to execute the contract.
- 6. Adopt the Resolution of Intention which identifies the project and specifies that project costs in the amount of \$10,000,000 may be reimbursed with proceeds from tax-exempt debt to be issued in the future.

3.14 TIBURON BETA TEST AGREEMENT

Authorize the City Manager or Designee to Issue a Purchase Order and Execute an Agreement and Implementing Documents with Tiburon, Inc., for Beta Test of New Computer-Aided Dispatch, Mobile CAD, Automated Report Writing, Records Management, Jail Management and Property Management Systems

Contact Person:

Marilyn Crane Name: Pam Lutzinger

Title: Public Safety Information Director

Technology Manager

Police Information Technology Services Dept.:

Phone: 510-790-6734 510-494-4802

E-Mail: plutzinger@fremont.gov mcrane@fremont.gov

RECOMMENDATION: Approve a solicitation exception as described in the staff report and authorize the City Manager, or designee, to issue a purchase order in the amount of \$10,000 for third-party licensing to Tiburon, Inc., and to execute an agreement and implementing documents to participate in the beta test of Tiburon's Computer-Aided Dispatch, Mobile CAD, Automated Report, Records Management, Jail Management and Property Management applications currently in development.

4. **CEREMONIAL ITEMS – None.**

5. **PUBLIC COMMUNICATIONS**

5.1 **Oral and Written Communications**

REDEVELOPMENT AGENCY - None.

PUBLIC FINANCING AUTHORITY - None.

CONSIDERATION OF ITEMS REMOVED FROM CONSENT CALENDAR

6. SCHEDULED ITEMS

6.1 OSGOOD ROAD IMPROVEMENTS CONTRACT AWARD

Approval of Plans and Specifications and Award of Contract in the Amount of \$3,732,341.10 to the Lowest Responsible Bidder for the Osgood Road Improvement Project Between Washington Boulevard and Grimmer Boulevard, City Project No. 8173 (PWC)

Contact Person:

Name: Jeanne Suyeishi Norm Hughes Title: Associate Civil Engineer City Engineer

Dept.: Community Development Community Development

Phone: 510-494-4728 510-494-4748

E-Mail: jsuyeishi@fremont.gov nhughes@fremont.gov

RECOMMENDATION:

- 1. Approve the plans and specifications for the Osgood Road Improvement Project between Washington Boulevard and Grimmer Boulevard, City Project No. PWC 8173.
- 2. Accept the bid and award the construction contract for the Osgood Road Improvements Project between Washington Boulevard and Grimmer Boulevard, PWC 8173 to the lowest responsible bidder, RGW Construction, Inc., in the amount of \$3,732,341.10, and authorize the City Manager or his designee to execute the contract.
- 3. Transfer \$75,000 from 531PWC8629 (Osgood Road Signal Interconnect) to 531PWC8173.
- 4. Appropriate in-lieu fee in the amount of \$75,544 to 502PWC8173 (43400 Osgood Road Street Improvement Contribution).
- 5. Transfer \$33,800 from 194PWC8726 (EECBG LED Ped Signals Project) to 194PWC8173.

6.2 ADOPTION OF AFFORDABLE HOUSING ORDINANCE ZONING TEXT AMENDMENT

Waive full reading and Adopt the Affordable Housing Ordinance Zoning Text Amendment (FMC Title VIII, Chapter 2, Article 21.7) and Making Findings Related to the Negative Declaration

Contact Person:

Name: Harvey Levine Jill Keimach Title: City Attorney Director

Dept.: City Attorney's Office Community Development

Phone: 510-284-4030 510-494-4767

E-Mail: hlevine@fremont.gov jkeimach@fremont.gov

RECOMMENDATION:

1. Find that the Negative Declaration (Exhibit "A") prepared for this project has been completed in compliance with the requirements of CEQA and reflects the

- independent judgment of the City, and that approval of this Zoning Text Amendment and setting of Affordable Housing In-lieu and Impact Fees will not have any significant impact on the environment.
- 2. Waive full reading and adopt an ordinance amending Fremont Municipal Code Title VIII, Chapter 2, by deleting Article 21.7, Inclusionary Housing Ordinance in its entirety, and replacing it with the provisions set forth in Exhibit "A", Affordable Housing Ordinance.

6.3 CLIMATE ACTION PLAN

Review and Discussion of Potential Actions for Inclusion in the City's Climate Action Plan (Continued from June 8, 2010)

Contact Person:

Name: Amy Rakley Dan Schoenholz

Title: Associate Planner Policy and Special Projects Manager

Dept.: Community Development Community Development

Phone: 510-494-4450 510-494-4438

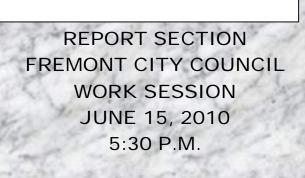
E-Mail: arakley@fremont.gov dschoenholz@fremont.gov

RECOMMENDATION:

- 1. Council discussion and feedback to staff about continuum of potential actions.
- 2. Direct staff to return with a Climate Action Plan for Council adoption as part of the General Plan update process.

7. REPORT FROM CITY ATTORNEY

- 7.1 Report Out from Closed Session of Any Final Action
- 8. OTHER BUSINESS None.
- 9. COUNCIL COMMUNICATIONS
 - 9.1 Council Referrals None.
 - 9.2 Oral Reports on Meetings and Events
- 10. ADJOURNMENT



2.1 PATTERSON RANCH DEVELOPMENT PLAN

Contact Person:

Name: Scott Ruhland Jill Keimach

Title: Associate Planner Director, Community Development

Dept.: Community Development Community Development

Phone: 510-494-4453 510-494-4767

E-Mail: sruhland@fremont.gov jkeimach@fremont.gov

PURPOSE OF THE WORK SESSION: The purpose of the work session is to present an update on the Patterson Ranch Development Plan as presented by the applicant, Richard Frisbie. A revised plan was submitted to the City in February, 2010 for land use entitlement. A Re-circulated Draft Environmental Impact Report, (RDEIR) was prepared for this plan and is currently undergoing public review. Staff will also present the key terms of the Development Agreement for the project.

POLICY ISSUES/ANALYSIS:

The proposed plan represents a significant reduction in residential density from the previous plan. The Plan now considers up to 520 residential units with supporting transportation, parks/open space, drainage/utilities and infrastructure improvements. The plan now includes two residential scenarios:

- 1) 500 single-family homes (assumes inclusionary in-lieu fee)
- 2) 448 single-family homes, 72 apartments (including 58 affordable units) for a total of 520 units

The plan includes an eight acre dedication of land to the City for parkland, although improvement of this parkland is not considered at this time. For environmental review purposes only, the RDEIR also considers two religious facilities that would be located along the western edge of Ardenwood Boulevard. Land use entitlements for the religious facilities are not being considered at this time. The remaining project area will remain as open space. The project does not include any other land uses.

Development of the project will require the excavation and transfer of approximately 300,000 cubic yards of fill material that will be taken from the remaining project area. This area will be excavated and material hauled to the development area for import and rough mass grading. Off-site import of material is also possible. The excavated area will be returned to a condition similar or better with opportunities for increased wetland and biological value.

The anticipated review schedule for the project includes completing the environmental review process this summer and moving the project forward through the public hearing process in late summer/early fall.

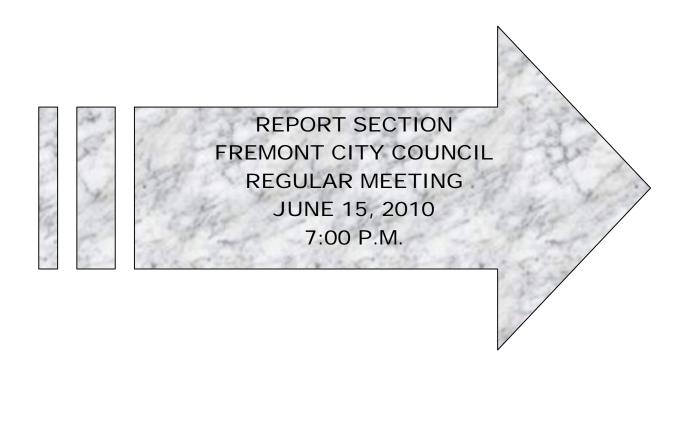
The anticipated development schedule after project entitlement includes 4-5 years of permitting and site preparation. The first residential units could be constructed as early as 2015 with occupancy of units expected to start in 2016. It is expected that the project will build out over the next 5-10 years with completion expected by 2025.

REQUESTED OUTCOME OF THE WORK SESSION:

Receive presentation from applicant and staff and provide feedback and comments on project.

ENCLOSURES:

- Revised Plan Comparison Table
- Patterson Ranch Illustrative Plan
- Summary of Development Agreement Terms



*3.3 Second Reading and Adoption of an Ordinance of the City of Fremont Amending Fremont Municipal Code Title VIII, Chapter 2, Article 21, Adopting Freeway-Oriented Sign Regulations for the Industrial Area Portion of the Fremont Merged Redevelopment Project Area and Related Changes

ENCLOSURE: Draft Ordinance

RECOMMENDATION: Adopt ordinance.

*3.4 AUTHORIZATION TO ENTER INTO MEMORANDUM OF UNDERSTANDING TO ACCEPT UASI GRANT FUNDS AND MAKE ASSOCIATED PURCHASES

Authorization to enter into a Memorandum of Understanding with the City and County of San Francisco as Fiscal Agent for the Urban Area Security Initiative (UASI) Grant Program to Accept UASI Grant Funds and Make Associated Purchases

Contact Person:

Name: Kelly Sessions Bruce Martin
Title: Business Manager Fire Chief

Dept.: Fire Fire

Phone: 510-494-4281 510-494-4202

E-Mail: ksessions@fremont.gov bmartin@fremont.gov

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Executive Summary: Staff seeks City Council approval to enter into a Memorandum of Understanding (MOU) with the City and County of San Francisco to accept 2008 Urban Area Security Initiative (UASI) grant funds totaling \$121,500 and to appropriate and spend those funds on disaster preparedness training and equipment as detailed in the MOU.

BACKGROUND: The United States Department of Homeland Security (DHS) has designated the City and County of San Francisco as the fiscal agent for the Bay Area UASI regional work group. With the goal of furthering the DHS program and objectives to improve domestic disaster preparedness, the DHS gives annual grant funds to the fiscal agent, which in turn grants those funds to its member agencies. In the capacity of fiscal agent, the City and County of San Francisco has notified the City of Fremont Fire Department that the Department is approved to receive funding totaling \$121,500 as a sub-grantee to purchase equipment and provide training to increase operational readiness and disaster preparedness.

Before moving forward, certain fiscal and administrative requirements must be met. First, because of budget implications and the size of the award, City of Fremont policies require that the issue be brought to the City Council for approval and acceptance. Secondly, the fiscal agent requires that Fremont enter into a standard agreement used with other grant recipients to accept and comply with federal UASI grant administrative guidelines before any grant funds can be remitted. Staff has reviewed the terms of the MOU and finds that the City and its Fire Department can comply without adverse impact.

DISCUSSION/ANALYSIS: A stated goal of the Fremont Fire Department's Special Operations Leadership Committee is to increase operational readiness in an all-risk environment. Acceptance of these grant funds would enable the Fremont Fire Department to achieve Hazardous Materials Response Type 2 capability, as determined by the State of California Office of Emergency Services (OES), meaning that the City would have intermediate levels of equipment and training to mitigate any toxic or industrial release of hazardous materials within the City borders. The grant funds would also get the Fire Department well on its way to achieving Type 1 level advanced-response by April 2011 that would increase training and equipment from that of a "technician" level to that of a "specialist;" this enhancement would allow the Fremont Fire Department to handle all hazardous material releases internally without having to rely on or wait for mutual aid.

Once the Type 2 level is achieved, these resources would be designated as regional assets and would become part of the State mutual aid system. All training and equipment purchases must be complete by July 30, 2010.

FINANCIAL IMPACT: The City would receive grant funding \$121,500, which would be appropriated to the 2009/10 fiscal year; \$48,000 would be spent on two training courses related to allrisk leadership for fire and police departments, \$23,500 would be spent on equipment to bring current resources up to a Type 2 level hazardous materials response capability, and an additional \$50,000 in equipment would be purchased to bring Fremont physical resources up to a Type 1 level. There is no matching requirement for the grant, and all grant funds are given on a not-to-exceed reimbursable basis only.

Once the City of Fremont attains a Type 2 rating from State OES, these resources would become regional in nature and could be called out on State mutual aid responses. For this effort, the State will pay for ongoing maintenance of equipment and training, including backfill overtime, to keep these resources in top operational readiness. The City of Fremont would retain the prerogative to decline response to a mutual aid call if, for instance, resources were spread so thin that the safety of City of Fremont residents and citizens would be compromised.

ENVIRONMENTAL REVIEW: While acceptance of these grant funds does not create an environmental impact, use of the funds as proposed would certainly put the City in a much better position of protecting the region from potential hazardous materials releases and other catastrophic calamities.

ENCLOSURES: Memorandum of Understanding between the City and County of San Francisco and the City of Fremont for the Distribution of FY 2008 UASI Regional Funds

RECOMMENDATION: Authorize the City Manager or designee to enter into an agreement with the City and County of San Francisco to apply for, accept and appropriate 2008 UASI grant funds totaling \$121,500 to Fiscal Year 2009/10 to Fund 199 (Misc. Federal Grants), and to spend those funds on the training and equipment as proposed.

*3.5 REFERRAL FROM RECREATION COMMISSION TO ACCEPT MEASURE WW PARK BOND GRANTS FROM EAST BAY REGIONAL PARK DISTRICT AND APPROPRIATE FUNDS TO PROJECTS

Accept Two Grants from the East Bay Regional Park District Measure WW Local Grants Program and Appropriate \$2,682,258 in Funds to the Measure WW Citywide Play Area Upgrade Project and \$488,386 in Funds to the Measure WW Tiny Tots Play Area Upgrades Project

Contact Person:

Name: Roger Ravenstad Annabell Holland

Title: Senior Landscape Architect Director

Dept.: Community Development Parks and Recreation

Phone: 510-494-4723 510-494-4329

E-Mail: rravenstad@fremont.gov aholland@fremont.gov

Executive Summary: This is a referral from the Recreation Commission to accept two grants that the East Bay Regional Park District Board approved on May 18, 2010, for the City of Fremont through the Measure WW Park Bond Local Grant Program, appropriate the funds to the projects, and appropriate City Park Development Funds (Fund 540) to cover non-reimbursable design and management expenses up to \$240,000. The grants include \$2,682,258 for the Measure WW Citywide Play Area Upgrades and \$488,386 for the Measure WW Tiny Tots Play Area Upgrades.

BACKGROUND: In 2008 Alameda and Contra Costa County voters approved a \$500 million extension of the 1988 Park Improvement Bond Measure AA. The new measure, Measure WW, includes \$125 million for cities, special park and recreation districts, county service areas, and the Oakland Zoo for much-needed local park and recreation projects. The City of Fremont was allocated \$9,758,562 to be used for City projects. The City's allocation is administered by the Local Grants Program and all projects must be completed by December 31, 2018.

On March 2, 2010, City Council adopted a resolution authorizing a Master Agreement between the City of Fremont and East Bay Regional Park District to administer the Fremont allocation, and approved the 2010 application for the Citywide Play Area Upgrades project and the Tiny Tots Play Area Upgrades project.

DISCUSSION/ANALYSIS: The play areas included in the Citywide Play Area Upgrades application are Frank Fisher Park, Central Park (main play area), Lowry Park, Rix Park, Peregrine Park, Warbler Park, and David Jones. The Tiny Tots Play Area Upgrades sites include Irvington, Centerville, and Los Cerritos Community Parks. All of these sites have aging play structures and play areas that need upgrading or replacement to comply with current Consumer Product Safety Commission Guidelines for Play Area Design and fhe Americans with Disabilities Act.

On March 2, 2010, City Council approved a Master Agreement with the East Bay Regional Park District, and directed staff to apply for the two play area upgrade projects. At their May 18, 2010 meeting, the East Bay Regional Park District Board reviewed and approved the two play area upgrade projects for the City of Fremont.

FISCAL IMPACT: There is no match required for the grants. However, the Measure WW Local Grants Program will not reimburse the City for administrative expenses above and beyond the direct hourly employee wage. The amount not reimbursable for these two projects combined is \$240,000. The City Council allocated Park Development Impact money (Fund 540) to the Capital Improvement Projects (CIP) Emerging Projects Reserve to allow for opportunity projects that were not anticipated during the capital budget for 2009/10 through 2013/14.

The current balance of the Emerging Projects Reserve, Fund 540, is \$499,412. This report recommends the use of \$200,000 for the Measure WW Citywide Play Area Upgrade project, and \$40,000 for the Measure WW Tiny Tots Play Area Upgrade project from the CIP Emerging Projects Reserve to cover the non-reimbursable expenses. After these transfers, \$259,412 of Park Development money (Fund 540) will remain in the CIP Emerging Projects Reserve.

ENVIRONMENTAL REVIEW: The proposed projects are within existing parks and are modifications of already existing playground areas. The proposed project is exempt from the California Environmental Quality Act (CEQA) per Guideline 15301 for modification of existing facilities.

ENCLOSURE: None.

RECREATION COMMISSION ACTION:

On June 2, 2010, the Recreation Commission voted unanimously (5-0-2-0) to recommend the City Council accept two grants from the East Bay Regional Park District Board approved on May 18, 2010 for the City of Fremont through Measure WW Park Bond Local Grant Program, appropriate the funds to the projects, and appropriate City Park Development Funds (Fund 540) to cover non-reimbursable design and management expense up to \$240,000. The grants include \$2,682,258 for the Measure WW Citywide Play Area Upgrades and \$488,386 for the Measure WW Tiny Tot Play Area Upgrades.

RECOMMENDATION:

- 1. Accept \$2,682,258 in grant funds from the Measure WW Local Grants Program and appropriate funds in the grant amount to 513PWC8733, Measure WW Citywide Play Area Upgrade Project.
- 2. Accept \$488,386 in grant funds from the Measure WW Local Grants Program and appropriate funds in the grant amount to 513 PWC 9732, Measure WW Tiny Tots Play Area Upgrade Project.
- 3. Transfer \$200,000 from Capital Improvement Projects Emerging Projects Reserves 540PWC7101 to 540PWC8733, Measure WW Citywide Play Area Upgrade Project.
- 4. Transfer \$40,000 from Capital Improvement Projects Emerging Projects Reserve 540PWC7101 to 540PWC8732, Measure WW Citywide Play Area Upgrade Project.

*3.6 AMENDMENT TO PARKING AND ADMINISTRATIVE REMEDY ORDINANCE CITATION PROCESSING AND COLLECTIONS SERVICES CONTRACT Authorize City Manager to Sign Amendment to FY 2009/10 and 2010/11 Contract with Data Ticket, Inc., for Parking and ARO Citation Processing and Collection Services

Contact Person:

Name: Geneva Bosques Mark Riggs
Title: Management Analyst II Lieutenant
Dept.: Police Police

Phone: 510-790-6957 510-790-6913

E-Mail: gbosques@fremont.gov mriggs@fremont.gov

Executive Summary: In June 2006, the City entered into a five-year agreement with Data Ticket, Inc., for processing and collection services for municipal code parking and Administrative Remedy Ordinance (ARO) citations. The contract will not expire until June 30, 2011; however, it is projected that actual expenses will exceed the "not to exceed" threshold in FY 2009/10 and FY 2010/11. Due to higher than expected revenue and costs associated with the Franchise Tax Board Interagency Intercept program, the "not to exceed" compensation for the current year and remaining term of the contract must be amended.

BACKGROUND: The current contract entered with Data Ticket, Inc., is in the amount of \$30,000 per year with a "not to exceed" clause of \$70,000 per year for services associated with processing and collection of parking and ARO (Municipal Code) citations. This contract includes participation in the Franchise Tax Board's (FTB) Interagency Intercept program. Due to a high volume of unpaid citations and limited staff to coordinate an internal collection program, the FTB program was implemented. This program collects unpaid citations by a method similar to that of a collection agency, through State income tax refunds. When the agreement for this new service began, an accurate way to project revenue and costs associated with collections was not available. Over the first four years of participation, collections exceeded original estimates, resulting in higher collection expenses and revenue received. Collection expense is directly related to actual collections.

DISCUSSION/ANALYSIS: Staff anticipates FY 2009/10 expenses of \$87,000 to \$110,000 for processing and collection services. FY 2010/11 is expected to show the same level of activity. To date in FY 2009/10 staff has issued 4,785 total parking citations, generating over \$282,000 in gross revenue. Over the same time period, staff has also issued 5,723 ARO citations generating over \$188,000 in gross revenue. As of April 30, 2010, FTB collections for FY 2009/10 are approximately \$118,000. Revenue is currently sufficient to cover higher costs resulting from participation in the FTB program. The associated costs include a Social Security request required for each individual, a 15% fee for notices, file placement and updates, and 25% of fines collected. Staff recommends that the "not to exceed" clause be amended and increased to \$120,000 for 2009/10 and 2010/11.

During the next year, the final year of the current contract, staff from departments participating in the ARO program will do an in-depth analysis of the program to analyze the potential benefit of continuing forward with new advanced technology to reduce the cost of issuing paper tickets and evaluate the FTB collection program.

FISCAL IMPACT: The parking and ARO citation program generates adequate fine revenue to support increased program costs. Because the program is cost-covering, there is no added General Fund burden associated with amending the contract.

ENVIRONMENTAL REVIEW: None required

ENCLOSURE: None

RECOMMENDATION: Authorize the City Manager or his designee to amend and increase the "not to exceed" provision of the contract to \$120,000 with Data Ticket, Inc., for parking and ARO citation processing and collection services in FY 2009/10 and FY 2010/11.

*3.7 CITATION HEARING SERVICES CONTRACT AMENDMENT Authorize City Manager to Execute an Amendment to FY 2010/11 Contract with Data Ticket, Inc. for Parking and ARO Citation Hearing Services

Contact Person:

Name: Geneva Bosques Mark Riggs
Title: Management Analyst II Lieutenant
Dept.: Police Police

Phone: 510-790-6957 510-790-6913

E-Mail: gbosques@fremont.gov mriggs@fremont.gov

Executive Summary: In June 2006, the City entered into a four-year agreement with Data Ticket, Inc., for parking and administrative remedy ordinance (ARO) hearing services. This contract is due to expire on June 30, 2010. While there are several advantages of extending the contract for one additional year, the most specific is in regard to having it terminate at the same time as the City's second contract with Data Ticket, Inc., for citation processing and collection services.

BACKGROUND: The contract with Data Ticket, Inc., entered in 2006 is in the amount of \$30,000 per year with a "not to exceed" clause of \$50,000 per year, for administrative hearing services associated with parking and ARO (Municipal Code) citations. Over the four years of contracting this service with Data Ticket, Inc., their performance has exceeded expectations. On June 30, 2011, a second contract with Data Ticket, Inc., for processing and collection services is due to expire. It would be to the City's advantage to extend the contract for administrative hearing services in order to have both contracts expire at the same time. This allows staff to evaluate both aspects of the parking citation and ARO program in its entirety for the possibility of having to issue a request for proposals in 2011 for these services. Because of the close relationship of the services to each other, it makes sense to evaluate outside contracts for hearing services, and processing and collection services simultaneously. This would be made possible through the one-year extension of the hearing services contract.

DISCUSSION/ANALYSIS: Over the four years of the contract, the City has spent, on average, \$12,000 annually for the administrative hearing services contract. The Hearing Officer assigned to Fremont normally conducts one day of hearings in Fremont each month. The contract term had originally anticipated a higher volume of citizens contesting citations; thus, staff estimated a higher contract cost (\$30,000) for services.

The level of service and professionalism demonstrated by the Hearing Officer is highly satisfactory. Due to the third party relationship with Data Ticket, Inc., staff has very little interaction with the hearing officer and less administrative work due to the effective system in place. The quantity of service estimated during the additional year is anticipated to stay the same, putting the total annual cost at significantly less than the \$30,000 agreement.

FISCAL IMPACT: The parking citation and ARO program generates adequate fine revenue to support hearing services program costs. Because the program is cost-covering, there is no added General Fund burden associated with amending the contract.

ENVIRONMENTAL REVIEW: None required

ENCLOSURE: None

RECOMMENDATION: Authorize the City Manager or his designee to execute an amendment extending the contract with Data Ticket, Inc., for parking and ARO citation hearing services in an amount not to exceed \$30,000 annually for one year, to expire on June 30, 2011.

*3.8 PARTIAL RELEASE OF IMPROVEMENT SECURITY, TRACT 7862, 42055 BLACOW ROAD

Approval of the Partial Release of Improvement Security Required by the Private Improvement Agreement for Tract 7862, Based on the Partial Completion of Improvements

Contact Person:

Name: Jayson Imai Norm Hughes
Title: Associate Civil Engineer City Engineer

Dept.: Community Development Community Development

Phone: 510-494-4732 510-494-4748

E-Mail: jimai@fremont.gov nhughes@fremont.gov

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Executive Summary: The purpose of this report is to request City Council approval of a partial release of improvement security associated with construction of private subdivision improvements in Tract 7862. The improvement security was furnished by the subdivider of Tract 7862, Robson Homes, LLC, in accordance with the "Private Improvement Agreement, Tract 7862," approved by Council on June 24, 2008. The subdivider has substantially completed the required private improvements. Staff recommends a partial release of sixty percent of the original \$3,005,000 performance bond, which results in a \$1,202,000 bond remaining to be held until acceptance of the tract improvements.

BACKGROUND: Tract 7862, also known as Hummingbird, is located at the southwest corner of the intersection of Fremont Boulevard and Blacow Road in the Irvington Planning Area. The project encompasses 5.3 acres and includes 66 single-family detached units and 12 single-family attached duet units. The final map, improvement plans, and agreements were approved by the City Council on June 24, 2008.

The private improvements required by the subdivision plans and contained in the Private Improvement Agreement have been substantially completed. The amount of the bond submitted as security for the construction of the on-site improvements is \$3,005,000.

DISCUSSION/ANALYSIS: Fremont Municipal Code, Section 8-1426, Financial Guarantees, provides, in relevant part, that: "The Council may permit the partial release of the security upon the partial performance of the act or the acceptance of the work as it progresses." If the Council permits, a partial release of the improvement security may be made prior to acceptance of the improvements by the City Engineer. The developer has asked the City Council to approve the partial release of improvement security based upon the construction completed to date.

City construction staff has been inspecting the project during construction and has determined the subject improvements are substantially complete. Based upon the verifiable progress of construction, staff recommends a partial release of improvement security for the private improvements, with the balance held until final inspections and acceptance by the City Engineer.

In accordance with the Subdivision Map Act, a reduction in the improvement security can be considered if the cost of the remaining improvements does not exceed 20% of the original bond amount, and the

resulting security to be retained can be 200% of the cost of the remaining improvements. In this case, the amount estimated for completion of private improvements is 20%, or approximately \$601,000. Staff recommends retaining security equal to 200% of the estimated remaining improvement costs, or \$1,202,000 of security, until completion and acceptance of the subdivision improvements.

FISCAL IMPACT: None.

ENVIRONMENTAL REVIEW: The approved Final Map and Improvement Plans are consistent with the original project description, scope of work, and identified mitigations of the September 25, 2007, City Council adopted Mitigated Negative Declaration. No further environmental review is required.

ENCLOSURE:

• <u>Informational Item 1: Copy of Council report - Approval of Final Map Tract 7862 at 42055</u> Blacow Road, Robson Homes, LLC

RECOMMENDATION: Approve the partial release of improvement security for Tract 7862 private improvements in the amount of \$1,803,000, retaining \$1,202,000 in security until acceptance of the private improvements by the City Engineer.

*3.9 CASH RECEIPTING HARDWARE AND SOFTWARE

Authorize the City Manager or Designee to Issue a Purchase Order to The Active Network, Inc., and Execute an Agreement and Any Implementing Documents for the Purchase of a Cash Receipting System

Contact Person:

Name: Don Dorman Harriet Commons Title: Business Manager Finance Director

Dept.: Community Development Finance

Phone: 510-494-4730 510-284-4010

E-Mail: ddorman@fremont.gov hcommons@fremont.gov

Executive Summary: Staff recommends that the City Council authorize the purchase of hardware, software licensing, and consulting services for a centralized cash receipt control system from The Active Network, Inc., at a cost not to exceed \$99,584. Council approval is required because the total contract price, when added to the cost of other services purchased from this vendor, exceeds \$100,000 in Fiscal Year 2009/10.

BACKGROUND: The Revenue Division within the Finance Department processes tens of thousands of receipt transactions every year and handles millions of dollars while doing so. Most of those receipt transactions relate to the City's business tax, but many payments are made by property developers and others at the revenue counter, as well as users of City services at other City locations. Despite this volume, the City does not use a central cash receipting system. The series of worksheets and other cash handling tools used do not include internal capabilities for single-entry transactions (i.e., posting to multiple ledgers without duplicate keyboard entry), balancing controls for cash drawers and deposits, integrated credit card handling services, or automated reporting of transactions for balancing to the general ledger. The blend of tools used for cash receipting also means there are multiple accounting paths for various transaction types, which is not an optimal internal control situation.

The absence of these capabilities results in entering all cash receipt transaction at least twice, and sometimes three times, into all of the various spreadsheets and ledgers. Day-end balancing procedures frequently result in overtime because of the non-integrated control reports upon which staff relies. Deposits in the City's general ledger records must be combined or disaggregated to equal the amounts shown on bank statements, which needlessly increases time spent reconciling the bank accounts. All deposits are manually entered into at least two separate Excel worksheets: one daily for the close out and another each month during the bank reconciliation process.

DISCUSSION/ANALYSIS: Staff requests authorization to purchase cash receipting hardware and software licenses, together with related receipting system consultation and installation services, from The Active Network, Inc. Active Network also provides the CLASS® software used by the Recreation Department, which includes a module for processing credit card payments (which can be leveraged as part of the proposed purchase). The City has been satisfied with both the CLASS® software and the company's software maintenance services.

In addition to CLASS®, the proposed cash receipting software can be directly linked with other existing software used by the City for business tax collections, development center transactions, and general accounts receivable. These links are designed to reduce data entry time, increase accuracy and data reliability, and provide a common data path for all cash receipt transactions, thereby improving the accounting internal control over cash receipts.

Active Network will also review and evaluate the City's business processes related to cash receipts to assure optimal installation and use of the software. During staff's own process review, expected time and cost saving opportunities were identified related to efficiencies expected to be achieved in transmitting information from the departmental locations, where receipts are originally received, to the Revenue Division, where they are currently reprocessed. Based on site visits to other municipalities using the same system, it appears the time savings will be considerable.

The proposal from Active Network is a not-to-exceed cost of \$99,584, including the software licensing, interface analysis and programming, cash receipting practices analysis, evaluations to optimize product usage, and training. In addition to the costs for Active Network products, there will also be one-time charges estimated to total from \$2,500 to \$13,000 for existing software vendors to integrate their products with Active Network's cash receipting system. These additional third-party license fees will be paid from current budgets as the costs are incurred during installation. The target "live" implementation date is September 1, 2010.

This is recommended for purchase as a specialty item under Fremont Municipal Code section 2-9701. There are only three vendors that integrate with the City's existing HDL business tax software. This product is the only one of the three that integrates so completely that a payment button is inserted into the HDL business tax software product the City uses. Most of the thousands of data entry items processed in Revenue involve business tax collections. The cost-saving benefits of this level of integration more than offset the benefits contained in competing software packages. Also, Active Network will do a business process study to ensure software usage optimization by the City. This system analysis service feature is unique; most competitors sell, service, and train users on their software, but they do not look at the overall cash receipting practices being employed by their clients to assure optimum benefits are obtained from using their product.

FISCAL IMPACT: The total cost for the cash receipting system is not-to-exceed \$99,584. The cost breakdown is as follows:

<u>Description</u>	Price
Software Licenses	\$24,000
First Year Software Support	8,000
Hardware (including sales tax)	4,856
On-Site Fee	1,800
Professional Services	59,328
Travel Expenses (not-to-exceed)	<u>1,600</u>
TOTAL NOT-TO-EXCEED COST	\$99 584

After the initial investment to purchase and install the hardware and software, the annual maintenance costs will be approximately \$8,000 per year. There is sufficient funding in the Finance Department's budget for both the acquisition and the ongoing annual maintenance costs. No additional appropriations are required.

ENVIRONMENTAL REVIEW: Not applicable.

ENCLOSURE: None.

RECOMMENDATION: Approve a solicitation exception as described in the staff report and authorize the City Manager or designee to issue a purchase order to The Active Network, Inc., and execute any and all documents to purchase a cash receipting system in an amount not-to-exceed \$99,584.

*3.10 NILES UNION PACIFIC SITE PHASE 2 REMEDIATION PROJECT CONTRACT AWARD

Approval of Plans and Specifications and Award of Contract for the Niles Union Pacific Site Phase 2 Remediation Project, City Project No. 8700 (PWC)

Contact Person:

Name: Josh Huber Norm Hughes
Title: Redevelopment Project Manager City Engineer

Dept.: Office of Housing and Redevelopment Community Development

Phone: 510-494-4513 510-494-4748

E-Mail: jhuber@fremont.gov nhughes@fremont.gov

Executive Summary: The purpose of this report is to recommend that the City Council approve the plans and specifications, and award a \$1,912,177 construction contract to Pacific States Environmental Contractors, Inc., for the soil remediation work required at the Niles Union Pacific (UP) Phase 2 Remediation Project site, including adjacent City Parking Lots (City Project No. 8700 PWC).

BACKGROUND: The Niles UP site, comprised of the 37482, 37592, and 37682 Niles Boulevard properties, has been controlled by the City's Redevelopment Agency since January 2000 and owned by the Agency since 2005. The Agency has performed a wide range of environmental testing on this property. On September 28, 2006, the California Department of Toxic Substances Control (DTSC), the State agency overseeing the environmental cleanup of the site, approved the Redevelopment Agency's Remedial Action Plan (RAP), which addresses remediation of the site. The RAP is the blueprint for the overall cleanup of the properties involved. Cleanup of the properties was divided into two phases. The Phase 1 project, completed in 2007, remediated a portion of the property necessary for the construction of the new Niles Town Plaza. The Phase 2 project will remediate the remaining, unimproved and vacant portion of the former UP property and adjacent City Parking Lots 1 and 2.

On January 29, 2010, DTSC approved a Remedial Design Implementation Plan (RDIP), which defined the specific requirements for the cleanup of the Phase 2 site. Approval of the RDIP cleared the way for the City to prepare remediation bid documents and invite bids for remediation of the remaining, Phase 2 portion of the site.

DISCUSSION/ANALYSIS: The Project involves demolition, remediation, and backfill of the Niles UP Site Phase 2 Area. The bulk of the work involves excavation and removal of approximately 25,000 tons of soil containing metals and petroleum hydrocarbons in accordance with remediation plans already approved by DTSC. Confirmation soil samples will determine the final extent of the excavation and provide clearance for the site. Following clearance, the excavated areas will be backfilled and compacted with imported soil. The City's Historical Architectural Review Board (HARB) approved the project's design concept for conceptual replacement improvements (parking, landscaping, and vegetation) resulting from the Niles UP Site Phase 2 Remediation Project on June 3, 2010.

Remediation work will be sequenced in order to minimize impacts to the Niles Community. Public access to City Parking Lots 1 and 2 will remain available until September 1, 2010 to avoid impacts to the Niles Antique Fair (to be held the last weekend in August). A temporary parking lot will be

constructed adjacent to City Parking Lot 2 to provide parking capacity during remediation activities in City Parking Lots 1 and 2. Completion of remediation activities depends on many variables, including DTSC processing of the contractor's work plan, the degree of additional excavation that may be required based on testing, and the number of rain days this fall. If field work is not complete before the holiday events, provisions will be made to allow the events to proceed. The repaving of the remediated portions of the parking lots will be completed following remediation under a separate contract. The contract also includes a provision for liquidated damages of \$750.00 per calendar day for the contractor's failure to complete the work within the specified time.

The bid documents for the Niles UP Site Phase 2 Remediation Project were advertised on May 4, 2010 and May 11, 2010. Ten were received and opened on June 1, 2010. The bid results range from \$1,912,177 to \$2,910,275. The engineer's estimate was \$3,000,000. The bidders with their respective bid amounts are shown below:

	Bidder	Bid Amount
1.	Pacific States Environmental Contractors, Inc.	\$1,912,177.00
2.	O.C. Jones & Sons, Inc.	\$2,027,320.00
3.	Top Grade Construction, Inc.	\$2,033,720.00
4.	Magnus Pacific Corporation	*\$2,161,420.00
5.	A.J. Diani Construction Co., Inc.	\$2,206,400.00
6.	HSR General Engineering Contractors, Inc.	*\$2,418,700.00
7.	Bay Cities Paving and Grading, Inc.	\$2,481,292.00
8.	Evans Brothers, Inc.	\$2,565,960.00
9.	Wood Brothers, Inc.	\$2,753,230.00
10.	Innovative Construction Solutions, Norcal	*\$2,910,275.00

^{*} Mathematically Corrected Bid

The lowest responsible bidder, Pacific States Environmental Contractors, Inc., submitted a responsive bid in the amount of \$1,912,177.00 and all required documentation for this bid. The firm is experienced in this type of work. Pacific States Environmental Contractors, Inc. was awarded the 2007 Phase 1 Remediation Contract and performed the work in accordance with the plans and specifications. The Phase 1 remediation project was extremely successful, with a final project cost significantly under budget.

Fiscal Impact: The City Council previously approved the transfer of appropriated funds by the Redevelopment Agency Board for the environmental remediation of the Niles Phase 2 portion of the former UP Property to a Public Works Contract (PWC 8700). As of May 31, 2010, \$3,539,455.91 of these funds remained unencumbered and available to fund this project.

In order to utilize the existing \$200,000 grant from the U.S. Environmental Protection Agency previously appropriated to PWC 8639 in 2007, staff also recommends re-appropriating the amount to PWC 8700 to fund a portion of this contract.

Environmental Review: An Initial Study and Draft Negative Declaration were prepared for this project in accordance with the requirements of the California Environmental Quality Act (CEQA) (see Exhibit "A" and Informational Item #1). The analysis of the project concluded that there would not be a significant impact on the environment. Draft environmental documents were circulated for public review and comment from April 14, 2010 through May 5, 2010. No potentially significant impacts were identified during the public review period.

ENCLOSURES:

- Exhibit A Draft Negative Declaration
- Informational Item #1 Initial Study

RECOMMENDATIONS:

- 1. Hold a Public Hearing.
- 2. Adopt the Negative Declaration (Exhibit "A") based on the whole of the record that the proposed project has no potential for a significant impact on the environment and that this finding reflects the independent judgment of the City of Fremont.
- 3. Approve Plans and Specifications for the Niles UP Site Phase 2 Remediation Project.
- 4. Award a contract for the Niles UP Site Phase 2 Remediation Project (City Project No. 8700 PWC), to Pacific States Environmental Contractors, Inc. in the amount of \$1,912,177.00; and authorize the City Manager, or designee, to execute the contract.
- 5. Approve transfer of \$200,000 in EPA grant funds from 199PWC8639 to 199PWC8700.

*3.11 AUTHORIZATION TO RESUBMIT GRANT APPLICATIONS FOR PROPOSITION 1B STATE INFRASTUCTURE GRANTS

Authorization for the City Manager to Resubmit Highway-Railroad Crossing Safety Account Program Grant Applications for Railroad Grade Separations at Warren Avenue and Kato Road

Contact Person:

Name: Kunle Odumade Jim Pierson Title: Transportation Engineer Director

Dept.: Transportation and Operations Transportation and Operations

Phone: 510-494-4746 510-494-4722

E-Mail: kodumade@fremont.gov jpierson@fremont.gov

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Executive Summary: At its June 3, 2008 meeting, the City Council authorized the City Manager to submit grant applications for railroad grade separations at Warren Avenue and Kato Road under the Proposition 1B Highway-Railroad Crossing Safety Account (HRCSA) funding program. From the application, the City received approval from the California Transportation Commission for \$9.6 million for Warren Avenue and \$10 million for Kato Road under the HRCSA funding program. The application was submitted in conjunction with the Santa Clara County Valley Transportation Authority (VTA), which is the lead agency for the design and construction of both projects. Unfortunately, VTA could not meet the grant deadlines due to delays by Union Pacific Railroad (UPRR) in reviewing the plans and working with VTA to prepare the required agreements for the construction of the grade separations. Although the original deadlines were missed, many other grantees also missed the deadline. As a result, the California Transportation Commission is accepting new grant applications for a second cycle of funding. Staff intends to resubmit the same applications for the HRCSA funding program. In order to file HRCSA grant applications, the City Council must authorize the filing. If the application is successful, the new grant deadline to award a construction contract will be June 2012. To streamline the application process, staff is also seeking authorization for the City Manager to approve any grant agreements required and any modifications to existing agreements between the City and VTA as long as it does not require the City to commit resources beyond those previously committed by the City in the prior agreements.

BACKGROUND: Proposition 1B, approved by the voters in November 2006, created a funding program to pay for highway-railroad crossing improvements that is now called the Highway-Railroad Crossing Safety Account (HRCSA) funding program. The City submitted applications for two railroad grade separations at 1) Warren Avenue between Warm Springs Boulevard and Kato Road, and 2) Kato Road between Warm Springs Boulevard and Milmont Drive. After authorization from City Council on June 3, 2008, staff was successful in getting approval from the California Transportation Commission for \$9.6 million for Warren Avenue and \$10 million for Kato Road. The application was submitted in conjunction with Santa Clara County Valley Transportation Authority (VTA), which is building the BART extension to Santa Clara County adjacent to, and in conjunction with, these two grade separations. VTA is the lead agency for the design and construction of both the Kato Road Grade Separation and the Warren Avenue Grade Separation, which is part of the larger Mission-Warren Truck-Rail (MWT) project.

Unfortunately, VTA could not meet the grant deadline due to delays by Union Pacific Railroad (UPRR) in reviewing the plans and working with VTA to prepare the required agreements for the construction of the grade separations. Because many other grant recipients were also unable to meet the grant deadlines, the California Transportation Commission (CTC) is allowing all eligible agencies to reapply for the funds that were not obligated during the original deadline. Therefore, the CTC is now accepting grant applications for the new application cycle. The deadline to submit grant applications is June 30, 2010. Staff is recommending resubmitting the same applications for the HRCSA funding program. There are two different grant types available, one that requires a 10% contribution from the railroad and one that does not require a contribution. Previously, the Warren Avenue grant required a UPRR contribution and the Kato Road grant did not. Although we can apply for both grant types again, CTC staff has informed VTA that we will have a better chance of success if we stay with the same grant amounts and grant types as were previously approved.

In order to file HRCSA grant applications, the rule states the City Council must authorize the filing of the grant application. Staff is requesting that the City Council authorize the City Manager or his designee to file HRCSA grant applications and any other required supporting documents for the Warren Avenue and Kato Road grade separations. If the application is successful, the grant deadline to award a construction project will be June 2012. Staff is also seeking authorization for the City Manager to approve any grant agreements required and any modifications to existing agreements between the City and VTA as long as it does not require the City to commit resources beyond those committed by the City in the prior agreements.

DISCUSSION/ANALYSIS: Proposition 1B (State Infrastructure Bonds) includes a grade separation grant program of \$250 million, now called the Highway-Railroad Crossing Safety Account (HRCSA) program. There are two parts of the funding program. Part 1 originally provided \$150 million for grade separation projects on the current Section 190 (the traditional State grade separation funding program) priority list. A portion of this funding was committed in the prior funding cycle. Projects are to be matched at least dollar-for-dollar by local, federal or private funds, and the project must be ready to award a construction contract by June 2012. Part 1 funding requires a 10% minimum contribution from the railroad. Part 2 of the HRCSA Program provided \$100 million for crossing improvements and grade separations that either are or are not on the current Section 190 priority list. There is no contribution required by the railroad and no specific local match requirement; but higher priority will be given to projects with a higher non-state match. Both Parts 1 and 2 funding are limited to construction costs only.

Both projects, the Warren Avenue and Kato Road grade separations, are on the current Section 190 priority list, and are eligible for both Parts 1 and 2 of the grant program. The City can apply for both Parts 1 and 2 but CTC staff has advised us to only apply for the category that was previously approved. Applications have to be submitted by the City because the two railroad crossings are on City streets. The process to apply for the second cycle of grants has recently been finalized by the CTC, and grant applications are due in Sacramento by June 30, 2010. As was done previously, the City will be applying for these grants in cooperation with the Santa Clara VTA.

Warren Avenue Grade Separation: This railroad undercrossing (roadway goes under the railroad tracks) project is a City project. The grade separation is Phase 2 of the Mission/I-880 interchange reconstruction. The grade separation is needed to minimize delay and improve safety for vehicular traffic on Warren Avenue. The project is even more important with the recent connection of East and

West Warren Avenue over the top of I-880 after completion of Phase 1a of the Mission/I-880 interchange project last year. The project is also needed to accommodate the future expansion of BART to Santa Clara County. The City is currently working with VTA, ACTA and Caltrans on the final design of the MWT project. Although the project is at the 95% design level, UPRR has just agreed to begin reviewing the plans and start working with VTA to prepare the required Construction and Maintenance Agreement. The current project schedule calls for the Warren Avenue Grade Separation construction contract, as part of the larger MWT project, to be awarded in November 2011 and construction to be completed in November 2014. Property acquisition and utility relocations are underway.

The Council previously appropriated \$23,659,000 of Redevelopment Agency (RDA) funds, plus an additional \$5 million of Bridge Benefit funds, to the completion of the I-880/Mission/Warren interchange project. The RDA funding includes \$14 million originally budgeted for Phases 1b and 2, plus \$9,659,000 of projected savings from Phase 1a. The prior Warren Avenue Baseline grant agreement called for the City to contribute \$21,364,000 of its RDA funding to the Warren Grade Separation. The same level of City contribution is included in the current grant application.

As with the prior applications, the City and VTA are seeking \$9.6 million of HRCSA grant funding. VTA will do the majority of grant application preparation and processing. If the grant is awarded, staff will return to the Council to request adoption of the required resolution committing the local funding to the project.

Kato Road Grade Separation: The Kato Road grade separation is required for the future BART extension to Santa Clara County, but also benefits the City by grade separating the UPRR tracks from Kato Road. The City's only contribution to this project will be any grant funds received by the City. VTA will fund all other costs of this project. In addition, VTA will do all grant application preparation and processing. If the grant is awarded, the Kato Road grant will reduce VTA's cost accordingly. The City and VTA are seeking \$10 million of HRCSA grant funding. As with the Warren Avenue project, if the CTC awards a grant for the Kato Road project, staff will return to Council to request adoption of a resolution committing the local funding to the project. Because all the local funding for this project will come from VTA, the City's current cooperative funding agreement with VTA may also need to be updated to reflect any changes related to VTA's funding commitment. The current schedule calls for the construction contract to be awarded in May 2011 and construction to be completed in December 2012.

FISCAL IMPACTS: The City would contribute the same level of funding to the Warren Avenue Grade Separation (\$21,364,000) as was previously committed in the prior HRCSA grant application. This funding has already been appropriated by the City Council as part of the MWT project. There is no direct fiscal impact to the City for the Kato Road Grade Separation project.

ENVIRONMENTAL REVIEW: Environmental review has been completed. The City has filed Statutory Exemptions for both Grade Separation Projects.

ENCLOSURE: None.

RECOMMENDATION: Authorize the City Manager or his designee to file Highway-Railroad Crossing Safety Account Program grant applications and any other required supporting documents for the Warren Avenue and Kato Road grade separations, and authorize the City Manager or designee to

approve any grant agreements required and any modifications to existing agreements between the City and VTA as long as it does not require the City to commit resources beyond those previously committee by the City in the prior agreements.		

*3.12 PUBLIC SAFETY CAPITAL PROJECTS FUNDING PLAN

Approval of Public Safety Capital Projects (Fire Bond Program, Fire Station 11, and Police Seismic Retrofit) Funding Plan, Budget Clean-up, and Appropriations

Contact Person:

Name:Rob KalkbrennerBruce MartinTitle:Fire Bond Project ManagerFire ChiefDept.:Community DevelopmentFire DepartmentPhone:510-494-4428510-494-4202

E-Mail: rkalkbrenner@fremont.gov bmartin@fremont.gov

Executive Summary: Staff recommends that the City Council reallocate Fire Safety Bond and Certificates of Participation (COP) proceeds (and transfer the related appropriations permitting their expenditure) to (1) partially fund the Police Seismic Retrofit, PWC 8649, and (2) construct and supply additional improvements to completed Fire safety projects based upon the availability of unspent proceeds at completed fire stations. Staff also recommends returning \$959,663.92 of unspent general capital (Fund 501) contingency to the City's Budget Uncertainty Reserve. As approved by the City Council, the original Fire Safety Bond program and Fire Station 11 project funded improvements to and construction of various Fire stations and public safety training facilities. Throughout the development and construction processes, staff sought City Council appropriation authorization to expend resources for the specific component projects based on the best available estimates for each project. All of the component projects except for the Police Indoor Firing Range and Fire Station No. 3 (Irvington) are complete. Remaining appropriated project bond funds of \$4,750,000, consisting primarily of investment earnings, are available for other public safety projects and \$959,663.92 in general capital (Fund 501) funds are available to be returned to the fund balance and transferred to the Budget Uncertainty Reserve.

BACKGROUND: In 2002, voters approved Measure R, the Fire Safety Bond, which called for the seismic retrofitting and renovation of seven existing fire stations, the construction of three new fire stations to replace existing deficient facilities, and the construction of new public safety training facilities. To date, six of the seven stations have been seismically retrofitted; the last station, located in Irvington, has started construction and will be complete in spring 2011. The training facilities consist of three stand-alone projects. The Fire training classrooms and tactical training center are completed, and the Police gun range is under construction and will be completed this summer. In May 2009, the City Council approved the construction contract for Fire Station No.11 (Industrial Area). Construction is on schedule to be completed this summer.

The Police Seismic Retrofit project contract is ready to be awarded by Council and is being funded by a combination of funds. Staff recommends that the Council approve financing this additional public safety project by using the remaining unspent debt proceeds from both the 2002 Fire Bonds (which must be either expended solely for public safety-related construction or debt service and consist primarily of investment earnings); the 2008 COPs; and proceeds from a new COP to be issued in late 2010 or early 2011. Pending issuance of the final permanent financing, staff recommends advancing capital project funds under a Council resolution of intention to ultimately reimburse the costs with tax-exempt debt.

DISCUSSION/ANALYSIS: The majority of the projects are complete, with unspent Fire Safety Bond and COP proceeds still appropriated to those PWC accounts. Essentially, the final actual costs turned out to be less than the final "estimated" costs that were used to allocate the bond proceeds through the appropriation process. In addition, investment earnings accrued to the unspent bond proceeds, this frees up the unspent money to fund other public safety projects. The proposed transfers of appropriations will approve and appropriate these allocations to additional projects. This request has been reviewed with bond counsel to ensure it complies with expenditure requirements and meets the intent for which the dept was issued.

The table following shows the proposed transfers and reallocations:

Column 1	2	3	4	5	6
Public Safety Projects	PWC	Fund Type	Proposed Action	Amount Available to be Returned or Reallocated	Recommended Amount of Unspent Public Safety Appropriations to
					be Reallocated
CIP Fire Bond Reserve	8526	General Fund	Transfer to Budget	\$761,667.80	
	7838	(Fund 501)	Uncertainty Reserve	\$197,996.12	
Sale of new Station No.6	8531	General Fund	Approve Sale	\$2,265,000	
Remainder 1-acre parcel		(Fund 501)		(estimated value)	
Training Center Projects	8557	Fire Bond (Fund 213)	Re-appropriate	\$1,285,000	
Station No.11 - Industrial	8683	COP (Fund 599)	Re-appropriate	\$1,200,000	
CIP Fire Bond Reserve		General Fund (Fund 501)	Return to Fund Balance from 8526 and 7838		\$959,663.92
Public Art for Tactical Training Center and Police Indoor Shooting Range Projects	8557	COP (Fund 599)	Appropriate		\$75,000
Public Safety Capital Improvements	8741	General Fund (Fund 501) (from sale of St #6)	Approve and Appropriate		\$1,175,000
Police Seismic Retrofit Project	8649	Fire Bond (Fund 213) General Fund (Fund 501) (from			\$3,500,000
		sale of St #6) COP (Fund 599)	Appropriate \$1,090,000 Appropriate \$1,125,000		
		COF (Fullu 399)	Totals:	\$5,709,663.92	\$5,709,663.92

These transfers are important to accomplish the original intentions of the City Council with regard to the Fire Safety Bonds, construction of Fire Station 11, and the seismic retrofit of the Police building. When all the fire and safety projects are completed, any unspent 2002 Fire Safety Bond proceeds, which now consist primarily of investment earnings, on hand must be used for bond debt service interest or principal. If the Fire Safety Bond has unspent bond proceeds that are not transferred from completed projects to projects that are still in progress and projected to need resources, those unspent proceeds are at risk of not being expended for their intended capital purposes. Therefore, this request ensures the intent of the City Council and the voters is honored with respect to these already issued general obligation bonds.

The transfer of these appropriations will not cause the total amount of bonded indebtedness approved by the voters in 2002 to be exceeded (\$51,000,000). These transfers merely ensure that the entire amount including investment earnings is expended on public safety construction projects consistent with the public safety objectives of the electorate.

FISCAL IMPACT: There is no impact on the aggregate Fire Safety Bond improvement program budget, no impact on the Fire Station No.11 COPs, and a positive impact on the City's Budget Uncertainty Reserve. The net change in total appropriations is zero.

ENVIRONMENTAL REVIEW: None

ENCLOSURE: None

RECOMMENDATION:

- 1. Approve the following cleanup items:
 - a. Release 501PWC7838 Fire Station #8 appropriation by \$197,996.12 and appropriate \$197,996.12 to Fire Bond 213PWC7838 Fire Station #8
 - b. Release appropriation of \$761,667.80 on 501PWC8526 CIP Fire Bond Reserve and close project
 - c. Appropriate and approve transfer of \$959,663.92 from Capital Improvement fund 501 to Budget Uncertainty Reserve (Fund 007).
- 2. Appropriate \$2,265,000 of estimated revenues from the sale of the one acre parcel adjacent to Fire Station #6 that was previously acquired with Fire Bond proceeds, as follows: (a) \$1,090,000 for 501PWC8741 Public Safety Capital Improvements project and (b) \$1,175,000 for 501PWC8649 Police Seismic Retrofit project.
- 3. Approve the transfer of the remaining \$1,285,000 of Fire Bond proceeds originally appropriated for 213PWC8557 Training Center project to 213PWC8649 Police Seismic Retrofit project.
- 4. Approve the transfer of the \$1,200,000 of 2008 Variable Rate COP debt proceeds originally appropriated for 599PWC8683 Fire Station #11 project to 599PWC8649 Police Seismic Retrofit project for \$1,125,000 and to various art projects for \$75,000.

*3.13 POLICE DEPARTMENT SEISMIC RETROFIT PROJECT CONTRACT AWARD Approval of Plans and Specifications and Award of Contract to the Lowest Responsible Bidder for the Police Department Seismic Retrofit Project, City Project No. PWC 8649

Contact Person:

Name: Joel Pullen Robert Kalkbrenner

Title: Civic Facilities Project Mgr. Civic Facilities Development Services Mgr.

Dept.: Community Development Community Development

Phone: 510-494-4436 510-494-4428

E-Mail: ipullen@fremont.gov rkalkbrenner@fremont.gov

Executive Summary: Staff recommends that the City Council approve the plans and specifications for the Police Department Facility Seismic Retrofit Project (City Project No. 8649 PWC), appropriate project funding using a combination of the remaining surplus proceeds from earlier debt issues and proceeds from the sale of new Certificates of Participation, and award a \$5,221,000 construction contract for the project to Cal Pacific Construction, Inc.

BACKGROUND: The Police facility was completed in 1995 with the knowledge that additional modifications to the structural design would need to be made in the future. This is because the Northridge earthquake, which led to the development of more stringent building codes, occurred while the Police facility was under construction. This voluntary seismic retrofit project is intended to significantly increase the functionality of the facility during and after a major seismic event. In early 2009, the City Council approved 1) a design service agreement with the Crosby Group Structural Engineers; 2) a construction management agreement with Critical Solutions, Inc.; and 3) approved retaining a third-party structural engineering firm, Degenkolb Engineers, to peer review the seismic retrofit plans. The City Council deferred stating determining whether to use tax-exempt debt (probably Certificates of Participation (COPs)) until award of the construction contract. In coordination with staff from Community Development and the Police Department, the design team has prepared three iterations of design development drawings and two iterations of construction documents since summer 2009. All designs were stress tested for seismic events at the University of California, San Diego and further evaluated by a peer reviewer. The designs exceeded safety thresholds in the pre-evaluation. The end result is a set of plans and specifications that incorporate robust seismic safety features to preserve the integrity of the Police facility during a major earthquake while paying careful attention to construction considerations necessary for an occupied public safety facility. The design and project management team has worked closely with the Police Department throughout the project to ensure building and occupant safety, security, and operational continuity during construction.

DISCUSSION/ANALYSIS: The project includes installation of brace frames and brackets in strategic locations throughout the building's steel frame connections in order to reduce the "interstory drift" that is chiefly responsible for localized and general failures in buildings of the Police facility's type and vintage.

Architectural Considerations: Bracket installations occur in the floors and above ceiling tiles, and will be invisible after construction is completed. Brace frames have some architectural impacts. Brace frames were necessarily incorporated into the front and rear building walls, where their diagonal angles could

have been visible from the exterior of the building. In these cases, the City worked with the design firm to create larger interior window sills and un-recess the windows in the first bays on the side of the front and rear building entries in order to accommodate the structural members within the building envelope minimizing the architectural changes to the exterior. The end result is more aesthetically pleasing from the exterior, and additional functional sill space has been added in the interior, with no change in floor area. Away from facades, the limited effects on building architecture are associated with increased thickness of walls and modification of architectural improvements in the vicinity, including sliding a few doors and windows over on the atrium level, modifying soffits, built-in furniture, and cabinetry, and adding additional furniture, short walls, or other improvements (through coordination with the building users) where necessary to hide the braces and/or improve functionality of impacted spaces.

Building Operation Considerations: The Police facility is a 24-hour per day, 7-days per week operation, but many of the administrative and detective areas are routinely occupied only during normal weekday office hours. Early on during the project, it was deemed infeasible to temporarily relocate the Police Department, resulting in staff remaining in the building during construction. A number of design and specification adjustments were necessary to plan for construction within an occupied building. The City surveyed employee office areas near the work areas, and will contract separately to temporarily rearrange office spaces during each construction phase to make way for temporary barriers during construction. Common areas and offices will be cleaned and returned to usability at the end of each construction workday so as to not unduly interfere with Police operations. Construction hours will begin at the end of the Police Department's normal office-based work day (6 p.m.) and proceed into the early morning hours in order to minimize disruption of public safety functions.

Additional Considerations: Staff has measured baseline noise in the vicinity and placed standards on the contractor to limit noise in the environment. To maintain security for the occupants, the City will contract with a security company to perform badging functions and escort contractor personnel where necessary.

Dispatch Temporary Relocation and Upgrade: Because interior work in the vicinity of the Dispatch Center will be disruptive, a separate project is underway to provide additional call-center locations in the new gun range, which will be retained for emergency use after the project is completed. Provision of remote workstations at this distance requires an upgrade of Dispatch hardware and software because of distance limitations. The State will fund the Dispatch upgrade using customer premise equipment (CPE) funding for public safety answering points (PSAPs), which is now available as part of the City's five-year upgrade cycle. This separate but related call center upgrade item will come to the Council for consideration prior to heavy construction operations beginning on this project. Approximately \$80,000 in project funding will be needed for remote workstations in the gun range.

CONTRACT DURATION: The contract documents stipulate that the work is to be performed and substantially completed in 485 calendar days. The contract also includes a provision for liquidated damages of \$6,500 per calendar day for the contractor's failure to complete the work within the specified time, and other itemized liquidated damages related to specific Police campus buildings and operations. Staff recommends that the City Council approve these conditions.

The bid documents for the Fremont Police Department Seismic Retrofit were advertised on March 30, 2010. Bids were opened on May 11, 2010, and 6 bids were received. The bid results range from

\$5,221,000 to \$9,356,000. The engineer's estimate was \$7,700,000. The bidders with their respective bid amounts are shown below:

Contractor	Base Bid Total	Rank
Cal-Pacific Construction, Inc.	\$5,221,000.00	1
Alten Construction	\$5,342,000.00	2
BRCO Constructors	\$5,890,000.00	3
C. Overaa & Company	\$6,290,000.00	4
CDX Builders	\$6,768,000.00	5
Ralph Larsen & Sons	\$9,356,000.00	6

Bid Protest: The second lowest bidder, Alten Construction, submitted a timely protest to the bid of the low bidder, Cal-Pacific Construction. Alten argues that Cal Pacific's bid should be rejected as non-responsive because Cal-Pacific failed to list a subcontractor to install glass fiber reinforced concrete (GFRC) panels and Cal Pacific itself does not meet the installer qualifications contained in the bid specifications. Alternatively, Alten argues that Cal-Pacific is violating the subcontractor listing law and gains an advantage in the bid process because (1) Cal-Pacific's concrete subcontractor, D. Lopez Concrete, will in turn subcontract with Willis Construction, Inc., to install the concrete panels and that the work is a much larger portion of the structural concrete work to be performed by D.Lopez; and (2) Willis is not a listed subcontractor so the contractor is free to contract the GFRC work.

Staff has reviewed Alten's protest and Cal Pacific's response and has determined Alten's protest is without merit. Consistent with state law, the bid documents require bidders to list subcontractors who will perform work with a value of more than one-half of one percent of the bidder's bid amount. For purposes of the subcontractor listing law, a subcontractor is defined as one who contracts directly with the prime contractor. Thus, bidders are not required to list second-tier contractors. Although Cal Pacific did not list a subcontractor for the GFRC work, it was only required to do so if Cal Pacific was contracting directly with a GFRC subcontractor and the value of the work met the listing value threshold. Per the Contractor's State License Board, GFRC work can be accomplished by a B, C-8, or C-29 contractor. Cal-Pacific's listed concrete subcontractor, D. Lopez, holds a valid C-8 license, but is technically unqualified to perform the GFRC work because the project specifications require 5 years of experience working with GFRC. However, Cal Pacific states that D. Lopez will use Willis Construction as a second-tier subcontractor to fabricate and install the GFRC panels. The contract value of Cal Pacific's subcontract with D. Lopez is \$792,600, and this amount is consistent with the engineer's estimate for the structural concrete and GFRC fabrication and installation work as a portion of the overall work. Willis Construction will be a second-tier subcontractor, which Cal Pacific was not required to list. Willis holds the appropriate licenses, and has the requisite experience required by the project specifications. Cal-Pacific could not later contract or "bid shop" for the GFRC work because they have already listed D. Lopez for that work. Although D. Lopez could later contract with a different subcontractor for the GFRC work, this does not constitute a violation of the subcontractor listing law because the listing law does not apply to second-tier subcontractors. The value of D. Lopez's

subcontract clearly provides for the GFRC work to be performed. Cal-Pacific has indicated at this time that its listed concrete subcontractor, D. Lopez, will use a properly licensed and qualified second-tier contractor to perform the GFRC work. If a different second-tier contractor is used at the time of installation, Cal-Pacific will be required to demonstrate that the installer meets the qualifications set forth in the specifications.

In summary, the GFRC work will be performed by a second-tier subcontractor. Second-tier subcontractors are not required to be listed on the subcontractor listing sheet. There do not appear to be any violations of the subcontractor listing law and, if there were, the subcontractor listing law would govern the City's response. There is nothing in the subcontractor listing law that requires or allows the City to reject a bid as nonresponsive if a violation is suspected. Cal Pacific's bid is in order. Staff recommends award of the contract to the lowest responsible bidder, Cal Pacific Construction, Inc.

FISCAL IMPACT: The current project budget totals \$10,000,000, which is less than the June 2009 estimated budget of \$12,250,000. The project savings are due to construction cost savings stemming from the more cost efficient bolted bracket technology, competitive component manufacturing, and the current bidding environment. The budget includes soft costs, construction costs, and other construction-related costs and contingencies.

On June 5, 2007, the City Council approved the FY 2007/08 – 2011/12 Capital Improvement Plan (CIP), which included City Project No. PWC8649 (CIP #SP92) for the Seismic Retrofit of the Police Building. This project will be primarily funded by issuing new Certificates of Participation (COPs). In addition, staff proposes to utilize surplus balances realized from Measure R Bond funds (2002 General Obligation Bonds) and the 2008 Variable Rate COPs (related to public safety projects) as the result of project cost savings in order to reduce the amount of new debt to be issued for the project. The City has received confirmation from bond counsel that use of GO bond proceeds for this seismic improvement to public safety facilities is an acceptable use.

COPs are long-term, tax-exempt debt instruments that have been the City's choice of financing over the past 20 years because of their flexibility and cost advantages. These debt instruments involve encumbering City assets with a long-term lease arrangement between the City and the Fremont Public Financing Authority (FPFA) (a joint powers authority of the City and the Fremont Redevelopment Agency). The lease and underlying asset secure the debt repayment. The lease payments, typically made from the General Fund subject to the City's long-term debt policy, become the source of revenues used by the FPFA (the actual issuer of the debt) to pay the COP investors.

Federal law requires an official statement of the City's intent to reimburse itself from tax-exempt bond proceeds for project expenditures. The City has traditionally made such statements by adopting resolutions of intent to debt finance. An official statement of intent to debt finance was not required for preliminary non-construction expenditures, such as design costs, because such expenditures were less than 20% of the total project costs. In the meantime, the project costs for this work have been paid from the Capital Improvement Fund (Fund 599) awaiting the debt-financing to be obtained from the issuance of tax-exempt debt. Under the Council's recently adopted policy, the City Manager has authorized interfund loans between Funds 501 and 599 to pay the interim design expenses.

Staff recommends adoption of a resolution stating the Council's intent to debt finance to incur construction costs at this time, pending the issuance of the debt from which the ultimate costs will be paid.

In addition, the City has completed or programmed all projects anticipated under Measure R of 2002, and now has a remaining balance of \$2,375,000 usable for a seismic retrofit project of this type. There is also \$1,125,000 in available COP proceeds, for a total of \$3,500,000. Staff recommends utilizing these remaining balances to fund the PD Seismic Retrofit project in order to reduce the amount of new COP debt that must be issued to complete this retrofit project.

ENVIRONMENTAL IMPACT:

This project is categorically exempt from CEQA per CEQA Guidelines section 15301, as a repair or modification of an existing facility involving negligible or no expansion of use.

ENCLOSURES:

- Draft Resolution
- Fremont Police Facility Seismic Retrofit Project Site Plans Floor Plans and Exterior Elevations from the construction documents

RECOMMENDATIONS:

- 1. Find that this project is categorically exempt from CEQA per section 15301, existing facilities.
- 2. Approve plans and specifications for the Fremont Police Department Seismic Retrofit Project,
- 3. Appropriate a total of \$2,375,000 in remainder funds from Measure R of 2002 and funds from the sale of Fire St. #6 one acre parcel to PWC8649.
- 4. Appropriate the sale of \$6,625,000 in Certificates of Participation to 599PWC8649 (\$1,125,000 from the 2008 Variable Rate COPs surplus proceeds and \$5,500,000 from new COPs to be issued pursuant to later authorization from the City Council).
- 5. Award a contract for the Fremont Police Department Seismic Retrofit Project (City Project No. 8649 PWC) to Cal Pacific Construction, Inc., in the amount of \$5,221,000, and authorize the City Manager, or designee, to execute the contract.
- 6. Adopt the Resolution of Intention which identifies the project and specifies that project costs in the amount of \$10,000,000 may be reimbursed with proceeds from tax-exempt debt to be issued in the future.

*3.14 TIBURON BETA TEST AGREEMENT

Authorize the City Manager or Designee to Issue a Purchase Order and Execute an Agreement and Implementing Documents with Tiburon, Inc., for Beta Test of New Computer-Aided Dispatch, Mobile CAD, Automated Report Writing, Records Management, Jail Management and Property Management Systems

Contact Person:

Name: Pam Lutzinger Marilyn Crane

Title: Public Safety Information Director

Technology Manager

Dept.: Police Information Technology Services

Phone: 510-790-6734 510-494-4802

E-Mail: plutzinger@fremont.gov mcrane@fremont.gov

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Executive Summary: Tiburon currently provides the Computer-Aided Dispatch (CAD), Mobile CAD, Automated Report System (ARS), Jail and Property systems used by the City. Tiburon has approached the City to conduct beta testing, user testing and evaluation, of the newest Tiburon products in exchange for an upgrade to the latest systems when they are released. The only cost to the City is \$10,000 for licensing of third-party software required by the new system. Currently, annual maintenance and technical support previously approved by Council and paid to Tiburon exceeds \$100,000. Adding this additional \$10,000 cost requires separate Council approval.

BACKGROUND: The City currently uses Tiburon systems installed in 2005. The CAD and Mobile CAD software was upgraded as part of a beta test in 2007. None of the remaining systems have been upgraded since installation. Due to successful past collaboration, Tiburon approached the City with an offer to beta test their systems currently in development in exchange for use of the system by the City at no additional charge once it is released.

DISCUSSION/ANALYSIS: If the City were to pay for the upgrade being offered, the cost would be approximately \$1,500,000. Current systems are due for upgrade in the next two to three years. Taking advantage of this opportunity now allows the City to obtain this upgrade now and avoid future costs.

No other similar service is available to meet this need as Tiburon is proposing a beta test of its newest software in exchange for an upgrade to the City's existing software system that Tiburon itself provided. Entering into a contract for this service will continue to meet the purpose and goals of the purchasing ordinance (FMC 2-9100 et seq.) in that it will enable the City to realize substantial savings as described above while maximizing the quality of the software product through beta testing and obtaining an upgrade to the software at the earliest possible time. Accordingly, pursuant to Fremont Municipal Code section 2-9701, a sole source exception to standard solicitation requirements is justified in this instance

FISCAL IMPACT: The \$10,000 expense to purchase the third-party licensing is available in the Capital Improvement Program (CIP) Public Safety CAD/RMS Replacement project (501-PWC8476). There is no impact to the City's General Fund.

ENVIRONMENTAL REVIEW: Not applicable

ENCLOSURE: None

RECOMMENDATION: Approve a solicitation exception as described in the staff report and authorize the City Manager, or designee, to issue a purchase order in the amount of \$10,000 for third-party licensing to Tiburon, Inc., and to execute an agreement and implementing documents to participate in the beta test of Tiburon's Computer-Aided Dispatch, Mobile CAD, Automated Report, Records Management, Jail Management and Property Management applications currently in development.

6.1 OSGOOD ROAD IMPROVEMENTS CONTRACT AWARD

Approval of Plans and Specifications and Award of Contract in the Amount of \$3,732,341.10 to the Lowest Responsible Bidder for the Osgood Road Improvement Project Between Washington Boulevard and Grimmer Boulevard, City Project No. 8173 (PWC)

Contact Person:

Name: Jeanne Suyeishi Norm Hughes Title: Associate Civil Engineer City Engineer

Dept.: Community Development Community Development

Phone: 510-494-4728 510-494-4748

E-Mail: jsuyeishi@fremont.gov nhughes@fremont.gov

Executive Summary: The purpose of this report is to recommend that City Council approve the plans and specifications for the Osgood Road Improvement project between Washington Boulevard and Grimmer Boulevard, City Project No. 8173 (PWC), accept the bid and award the contract for construction to RGW Construction, Inc., in the amount of \$3,732,341.10. Staff also recommends the transfer of appropriations of \$75,000 from the Osgood Road Signal Interconnect Project PWC8629 to PWC8173, the appropriation of in-lieu fees of \$75,544 from the 43400 Osgood Road street improvement contribution, and the transfer of appropriations of \$33,800 from the Energy Efficiency and Conservation Block Grant (EECBG) Light Emitting Diode - Ped Signal Project PWC8726 to PWC8173. Because of Metropolitan Transportation Commission (MTC) deadlines associated with American Recovery and Reinvestment Act (ARRA) funds, this contract must by awarded by June 30, 2010.

BACKGROUND: The Osgood Road Improvement Project was approved by City Council in 1993 and was first funded in 1996. On May 12, 1998, staff presented a program to City Council to improve the Osgood Road corridor from Washington Boulevard to Auto Mall Parkway. At that time, the project was programmed with funding of \$4.1 million. Staff reported that the proposed funding was not sufficient to fully complete the project. Staff also included this project in the Metropolitan Transportation Commission's (MTC's) 1999 Transportation Improvement Program (TIP) to pursue federal funds to offset additional costs. The project was programmed to receive \$1,525,000 of Transportation Equity Act of the 21st Century (TEA-21) Demonstration funds in 2000 and was eventually allocated \$1,407,257 of TEA-21 funds. This required preparation of a National Environmental Policy Act (NEPA) document for this project. Due to delay by outside agencies, the NEPA document was not approved until December 21, 2004, and staff was not officially notified until February 8, 2005.

On October 18, 2005, staff requested and received authorization from Council to proceed with the right of way acquisition phase of this project. Right of way and easement acquisitions have been acquired from 23 parcels. The right of way acquisition was completed and certified by the Department of Transportation and the Federal Highway Administration (FHWA) on August 19, 2009.

Meanwhile, on July 13, 2004, and July 12, 2005, Housing Element Implementation Program 19 (Redesignation of Lands Along Transit Corridors) and Program 21 (Redesignation of Commercial and/or Industrial Lands on the Easterly Side of Interstate 880 for Residential Use), respectively, were presented to City Council. These programs redesignated and rezoned most of the parcels along Osgood Road north of Blacow from industrial to high and low density residential uses. The redesignation and

rezoning of these parcels helped fulfill the City's regional housing requirements, as established in the Housing Element. Due to rezoning of the these parcels north of Blacow, which are located in the Irvington Redevelopment Plan Area, the Redevelopment Agency requested that a landscaped median be installed in this area of the Osgood Road Improvement project in order to provide a street design compatible with the new residential General Plan and zoning designations.

On December 1, 2009, City Council authorized staff to submit an application to the Metropolitan Transportation Commission (MTC) for \$770,000 in funding from the federal American Recovery and Reinvestment Act of 2009 (ARRA) for Osgood Road for the rehabilitation of the existing roadway. These funds became available for use on Osgood Road due to the low bids received on the ARRA funded 2009 Citywide Overlay project. On April 23, 2010, the Department of Transportation and FHWA appropriated the funds to the Osgood Road project. Because these stimulus dollars have additional scheduling timelines and the funds became available only after last year's savings through the low bids, this contract must be awarded by June 30, 2010.

Project Description: The Osgood Road Improvement Project between Washington Boulevard and Grimmer Boulevard consists of the completion of the unimproved portions of Osgood Road and the rehabilitation of the existing roadway. The project will use a curb-to-curb width of 68 feet that was established in 1981 by City Council. Most of the improvements constructed along Osgood Road have been based on this width, and those improvements will be matched with this project. However, earlier improvements were built to a wider standard and the project will need to transition to those improvements near Blacow Road with the use of curb transitions and wider bicycle lanes. The planned striping pattern through most of the project will include the following geometrics: 5' bike lane/12' and 11' through lane/12' two-way left turn lane/12' and 11' through lane/5' bike lane (5-12-11-12-11-12-5). The project will match improvements completed at the Auto Mall intersection and the recently completed Washington Boulevard grade separation project. The project also includes the installation of bike lanes along the completed portion of Osgood Road between Auto Mall Parkway and Grimmer Boulevard.

The project includes construction of five-foot wide monolithic sidewalks and four and a half foot wide sidewalks with planter strips, depending on the width of the dedicated right of way. The project will also include the reconstruction of the existing roadway through the older sections of Osgood Road, including the intersection of Osgood Road and Auto Mall Parkway. Other items included in the project are the installation of light emitting diode (LED) street lighting, signal interconnect, and necessary street drainage improvements.

There will also be a landscaped median north of Blacow Road. The median design accommodates a southbound left turn pocket into the businesses at 42080 Osgood Road and a left turn opening out at their southern driveway. There will also be a median opening at 42307 Osgood Road with a northbound left turn pocket into these businesses. The intersection of Blacow Road accommodates a southbound turn pocket for drivers wanting to make a u-turn at this signalized intersection.

Due to project delays associated primarily with the lengthy NEPA environmental approval process and right-of-way acquisition, significant pavement areas that were not expected to require any pavement treatment are now being designed to include an overlay. Other areas that originally were designed for an overlay are in worse condition and are now in need of reconstruction, which is more costly than an

overlay. The ARRA funds that have been appropriated to this project by MTC will be used for this pavement rehabilitation work.

LED Street Lights: As part of the ARRA economic stimulus package, the federal government funded the Energy Efficiency and Conservation Block Grant program (EECBG) to provide the City with the opportunity to reduce greenhouse gas emissions and energy consumption. The installation of LED lamps meets both goals of this program. As part of the Osgood Road Improvements project, 53 existing street lights will be retrofitted with LED lamps and 26 new street lights will be installed with LED lamps. The installation of LED lamps provides the City with a cost-effective means of achieving energy savings, greenhouse gas reductions, utility cost savings and reduced maintenance costs. Another benefit from this installation is the ability to gather real-world data on which to base future decisions regarding LED street lighting.

DISCUSSION/ANALYSIS:

Bid Results: Bids were received on June 3, 2010 for the Osgood Road Improvements project between Washington Boulevard and Grimmer Boulevard, City Project No. 8173 (PWC), as follows:

BIDDER	TOTAL BID	RANK
RGW Construction, Inc.	\$3,732,341.10	1
Pavex Construction Company	\$3,761,209.40	2
Granite Construction Company	\$3,774,677.00	3
Top Grade Construction	\$3,798,412.35	4
Gallagher & Burk	\$3,808,808.00	5
Bay Cities Paving & Grading	\$3,826,660.20*	6
Redgwick Construction	\$4,304,497.20	7
McGuire & Hester	\$4,384,1278.80	8
Engineer's Estimate	\$4,700,000.00	

* Mathematically corrected

The low monetary bidder, RGW Construction, Inc., submitted a responsive bid, is experienced in this type of project and is a responsible contractor.

FISCAL IMPACT: The estimated annual cost of maintenance for labor and materials as a result of this project is within the existing operating budget.

PROJECT COSTS AND FUNDING: The following is a summary of actual and estimated project costs:

Environmental Consultants & Staff	\$440,300
Right of Way Acquisition	\$1,541,000
Right of Way Staff Time	\$457,500
Landscaping Consultants	\$15,500
Soil Testing Consultant	\$14,500
Utility Locating Consultant	\$9,100
ACWD Relocation Charges	\$85,100
Engineering, Design & Administration	\$650,000
Construction Contract (Low Bid)	\$3,732,341
(Includes \$470,000 in Construction Contingency)	
Construction Inspection, Surveying and Administration (estimate)	\$373,000
Project Contingencies	<u>\$450,000</u>
Total Estimated Costs	\$7,768,341

Funding programmed for the project is as follows:

Source	Description	
Fund 132	State Gas Tax Funds	\$125,000
Fund 142	State Gas Tax Funds	\$125,000
Fund 194	ARRA Funds (EECBG LED Ped Signals, PWC8726)	\$33,800
Fund 194	ARRA Funds	\$770,000
Fund 501	Capital Improvement Funds	\$231,071
Fund 502	Outside Source – Cash In-Lieu	\$28,198
Fund 502	Outside Source – Cash In-Lieu (43400 Osgood Road)	\$75,544
Fund 502	Outside Source – ACWD Cash In-Lieu	\$43,642*
Fund 502	Outside Source – Osgood Road (41791 Cash In-Lieu)	\$22,615**
Fund 522	TEA-21 Federal Funds	\$1,407,257
Fund 526	Prop 42 Funds	\$375,000
Fund 531	Traffic Impact Fees	\$3,875,000
Fund 531	Traffic Impact Fees (Osgood Rd Signal Interconnect, PWC862	29) \$75,000
Fund 951	Redevelopment Funds	\$605,105

Total Estimated Available Funding

\$7,792,232

Based on the current project estimate, there are sufficient funds available in this project.

ENVIRONMENTAL REVIEW: On December 21, 2004, the Department of Transportation along with the Federal Highway Administration (FHWA) determined that the Osgood Road project will have no significant impact on the environment. The Finding of No Significant Impact (FONSI) was based on

^{*} Per the cooperative agreement with ACWD

^{**} Per the deferred street improvement agreement for 41791 Osgood Road

the Environmental Assessment/Initial Study (EA/IS) and was determined to adequately and accurately address the environmental issues and impacts of the proposed project. The EA/IS and Draft Mitigated Negative Declaration (PLN 2004-00084) were prepared and circulated as a joint environmental project to respond to both California Environmental Quality Act (CEQA) criteria and federal National Environmental Protection Act (NEPA) environmental criteria. City Council adopted the draft mitigated negative declaration and approved the mitigation monitoring plan at the March 23, 2004 City Council meeting. On November 10, 2009, the Department of Transportation revalidated the original environmental document and determined that no further documentation needs to be prepared for this project. In addition, no changes to the project or its circumstances have occurred and no new information has become available since adoption of the project mitigated negative declaration that would require preparation of additional environmental documentation.

ENCLOSURE: Improvement Plans

RECOMMENDATION:

- 1. Approve the plans and specifications for the Osgood Road Improvement Project between Washington Boulevard and Grimmer Boulevard, City Project No. PWC 8173.
- 2. Accept the bid and award the construction contract for the Osgood Road Improvements Project between Washington Boulevard and Grimmer Boulevard, PWC 8173 to the lowest responsible bidder, RGW Construction, Inc., in the amount of \$3,732,341.10, and authorize the City Manager or his designee to execute the contract.
- 3. Transfer \$75,000 from 531PWC8629 (Osgood Road Signal Interconnect) to 531PWC8173.
- 4. Appropriate in-lieu fee in the amount of \$75,544 to 502PWC8173 (43400 Osgood Road Street Improvement Contribution).
- 5. Transfer \$33,800 from 194PWC8726 (EECBG LED Ped Signals Project) to 194PWC8173.

6.2 ADOPTION OF AFFORDABLE HOUSING ORDINANCE ZONING TEXT AMENDMENT

Waive full reading and Adopt the Affordable Housing Ordinance Zoning Text Amendment (FMC Title VIII, Chapter 2, Article 21.7) and Making Findings Related to the Negative Declaration

Contact Person:

Name: Harvey Levine Jill Keimach Title: City Attorney Director

Dept.: City Attorney's Office Community Development

Phone: 510-284-4030 510-494-4767

E-Mail: hlevine@fremont.gov jkeimach@fremont.gov

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Executive Summary: On June 1, 2010 the City Council considered the Planning Commission's recommendations regarding the revisions to the City's Affordable Housing Ordinance. The Council introduced an ordinance providing additional flexibility in meeting the inclusionary requirements. The changes (1) allow for the payment of in-lieu fees as an alternative to providing on-site inclusionary units for for-sale projects; (2) raise the basic inclusionary requirement from 15% to 20% in 2015, subject to a nexus study showing a reasonable relationship between the detriment created by the development of market rate housing and the need to provide affordable units; and (3) delete the requirement for unassisted rental housing developments to provide affordable units and instead require them to pay an impact fee. The Council also modified the Master Fee Resolution providing new in-lieu and impact fees.

DISCUSSION/ANALYSIS: On June 1, 2010 the City Council held a public hearing to consider Planning Commission Recommendation to amend Fremont Municipal Code Title VIII, Chapter 2, Article 21.7 and to set the fees established under the amended Ordinance.

After closing the Public Hearing the Council considered the proposed ordinance, the Planning Commission's proposed amendments and the input received in writing and in person during the hearing. The Council took the following actions:

Held the Public Hearing.

- 1. Made the findings related to Negative Declaration.
- 2. Found the Zoning Text Amendment and setting of In-Lieu and Impact Fees in conformance with the relevant provisions of the General Plan.
- 3. Found the public necessity, convenience and general welfare require the adoption of the zoning text amendment.
- 4. Made the following changes to the draft ordinance:
 - A. Revised the Zoning Text Amendment to adopt fifteen percent (15%) as the Basic Inclusionary requirement for all living-units in any for-sale project, except that effective

- January 1, 2015, twenty percent (20%) of all living units in any for-sale project shall be made available at affordable cost as prescribed in Section 8-22175(a), provided that the City Council finds that a nexus study quantifying the impacts of new market-rate units on the need for affordable housing supports a twenty percent (20%) affordability requirement.
- B. The ordinance shall be applicable to projects with 2 or more net new units or lots. Section 8-22171(q).
- C. The number of units provided through the Off-Site Construction and Purchase of Existing Market Rate alternatives shall be equal in number to the affordability requirements for the project.
- D. The allowed location for Off-Site Construction and Purchase of Existing Market rate units may be within one-mile of an existing rail station.
- 5. Waived full reading and Introduced the Ordinance Amending Fremont Municipal Code Title VIII, Chapter 2, Article 21.7.
- 6. Directed the City Clerk to prepare and publish a summary of the ordinance.
- 7. Adopted the resolution setting (1) the Affordable Housing Fee at \$22.50 per square foot for single-family detached homes on lots of at least 6,000 square feet, discounted by 30% to \$15.75 for the first year of administration, increasing over the initial three year period to \$22.50 and (2) the Affordable Housing Fee at \$19.50 per square foot for all other for-sale housing, discounted by 30% to \$13.85 for the first year of administration, increasing over the initial three year period to \$19.50 and (3) the Affordable Housing Impact Fee for Rental Projects be set at \$19.50 per square foot, discounted by 30% to \$13.85 for the first year of administration, increasing over the initial three year period to \$19.50. The fees shall increase annually by 10% each year.
- 8. Renamed the City's "Inclusionary Housing In-Lieu Fund" as the "Affordable Housing Fund".

ENVIRONMENTAL REVIEW: An Initial Study and Draft Negative Declaration have been prepared for this project in accordance with the California Environmental Quality Act. The environmental analysis did not identify any potential impacts. However, individual residential projects proposed in the future would be evaluated to identify and mitigate, if necessary, any potential environmental project-specific impacts.

ENCLOSURES:

- Exhibit "A" Draft Affordable Housing Ordinance
- Exhibit "B" Negative Declaration

RECOMMENDATION:

1. Find that the Negative Declaration (Exhibit "B") prepared for this project has been completed in compliance with the requirements of CEQA and reflects the independent judgment of the City, and that approval of this Zoning Text Amendment and setting of Affordable Housing In-lieu and Impact Fees will not have any significant impact on the environment.

2.	Waive full reading and adopt an ordinance amending Fremont Municipal Code Title VIII, Chapter 2, by deleting Article 21.7, Inclusionary Housing Ordinance in its entirety, and replacing it with the provisions set forth in Exhibit "A", Affordable Housing Ordinance.			

6.3 CLIMATE ACTION PLAN

Review and Discussion of Potential Actions for Inclusion in the City's Climate Action Plan (Continued from June 8, 2010)

Contact Person:

Name: Amy Rakley Dan Schoenholz

Title: Associate Planner Policy and Special Projects Manager

Dept.: Community Development Community Development

Phone: 510-494-4450 510-494-4438

E-Mail: arakley@fremont.gov dschoenholz@fremont.gov

Executive Summary: Pursuant to previous direction from the City Council, staff is in the process of developing a Climate Action Plan (CAP). The CAP will be adopted as part of the General Plan and is intended as a workplan for reducing Fremont's greenhouse gas emissions. The purpose of this item is to receive the City Council's comments and direction about a list of potential actions to include in the CAP to reduce greenhouse gas emissions in the City of Fremont between now and 2020. Staff will use Council feedback along with community input and continued analysis to develop a finalized list of actions that will become the heart of the City's CAP and provide the roadmap for implementation.

BACKGROUND: In 2008, the City completed a greenhouse gas (GHG) emissions inventory for the baseline year 2005. The inventory revealed that the transportation sector—primarily passenger vehicles—is responsible for 60% of Fremont's GHG emissions. Building energy use and solid waste are responsible for 37% and 3% of emissions, respectively. Also in 2008, the Council adopted a goal of reducing the community's GHG emissions by 25% from 2005 levels by 2020, in order to mitigate the harmful effect of GHG emissions on climate change.

DISCUSSION/ANALYSIS: The City of Fremont would need to reduce greenhouse gas emissions by over 700,000 MTC02e (metric tonnes of carbon dioxide equivalent) in order to meet the adopted goal. Like many local jurisdictions with significant emission reduction goals, the City will rely heavily on the successful implementation by the State of California of a wide range of emission reduction strategies in order to meet our goal. Examples of State-level strategies include the Renewables Portfolio Standard, which requires electric corporations such as PG&E, the energy provider for the City of Fremont, to increase procurement from eligible renewable energy sources, and the Low Carbon Fuel Standard, which will reduce greenhouse gases by reducing the carbon content of fuel used for transportation. Regional actions to implement Senate Bill 375, which establishes stronger linkages between land use and transportation, thus reducing vehicle-miles traveled, will also result in reduced greenhouse gas emissions in Fremont.

While State and regional actions will be responsible for the majority of greenhouse gas emission reductions, the City can achieve additional reductions, both community-wide and in City operations, in the areas of transportation, energy, and solid waste. There are a range of tools available along a continuum – with advocacy and leadership at one end, and regulation at the other – that the City could employ. Staff seeks direction from Council on specific measures and also on the extent to which the City should encourage and provide incentives for private sector action versus establishing mandatory requirements.

Item 6.3 Climate Action Plan June 15, 2010 Page 6.3.1

FISCAL IMPACT: The fiscal impact of implementing possible Climate Action Plan measures depends on the specific measures ultimately adopted by the City Council.

ENVIRONMENTAL REVIEW: There is no project related to the discussion of possible Climate Action Plan measures, and no action is required under the provisions of the California Environmental Quality Act (CEQA).

ENCLOSURE: Portfolio of potential actions for reducing greenhouse gas emissions

RECOMMENDATION:

- 1. Council discussion and feedback to staff about continuum of potential actions.
- 2. Direct staff to return with a Climate Action Plan for Council adoption as part of the General Plan update process.

Item 6.3 Climate Action Plan
June 15, 2010 Page 6.3.2

7.1 Report Out from Closed Session of Any Final Action

- 9.1 Council Referrals None.
- 9.2 Oral Reports on Meetings and Events

ACRONYMS

ABAGAssociation of Bay Area Governments	FUSD Fremont Unified School District
ACCMAAlameda County Congestion	GIS Geographic Information System
Management Agency	GPA General Plan Amendment
ACEAltamont Commuter Express	HARB Historical Architectural Review Board
ACFCD Alameda County Flood Control District	HBA Home Builders Association
ACTAAlameda County Transportation	HRC Human Relations Commission
Authority	ICMA International City/County Management
ACTIAAlameda County Transportation	Association
Improvement Authority	JPA Joint Powers Authority
ACWDAlameda County Water District	LLMD Lighting and Landscaping Maintenance
BAAQMD Bay Area Air Quality Management	District District
District	LOCC League of California Cities
BARTBay Area Rapid Transit District	LOS Level of Service
BCDCBay Conservation & Development	MOU Memorandum of Understanding
Commission	MTC Metropolitan Transportation Commission
BMPsBest Management Practices	NEPA National Environmental Policy Act
BMRBelow Market Rate	NLC National League of Cities
CALPERSCalifornia Public Employees' Retirement	NPDES National Pollutant Discharge Elimination
System	System
CBDCentral Business District	NPO Neighborhood Preservation Ordinance
CDDCommunity Development Department	PC Planning Commission
CC & R'sCovenants, Conditions & Restrictions	PD Planned District
CDBGCommunity Development Block Grant	PUC Public Utilities Commission
CEQACalifornia Environmental Quality Act	PVAW Private Vehicle Accessway
CERTCommunity Emergency Response Team	PWC Public Works Contract
CIPCapital Improvement Program	RDA Redevelopment Agency
CMACongestion Management Agency	RFP Request for Proposals
CNGCompressed Natural Gas	RFQ Request for Qualifications
COFCity of Fremont	RHNA Regional Housing Needs Allocation
COPPSCommunity Oriented Policing and Public	ROP Regional Occupational Program
Safety	RRIDRO Residential Rent Increase Dispute
CSACCalifornia State Association of Counties	Resolution Ordinance
CTCCalifornia Transportation Commission	RWQCB Regional Water Quality Control Board
dBDecibel	SACNET Southern Alameda County Narcotics
DEIRDraft Environmental Impact Report	Enforcement Task Force
DO Development Organization DU/AC Dwelling Units per Acre	SPAA Site Plan and Architectural Approval
• •	STIP State Transportation Improvement
EBRPD East Bay Regional Park District	Program TOPPE T. GW. P. J.
EDAC Economic Development Advisory	TCRDF Tri-Cities Recycling and Disposal Facility
Commission (City)	T&O Transportation and Operations
EIREnvironmental Impact Report (CEQA)	Department
EIS Environmental Impact Statement (NEPA)	TOD Transit Oriented Development
ERAFEducation Revenue Augmentation Fund	TS/MRF Transfer Station/Materials Recovery
EVAWEmergency Vehicle Accessway	Facility
FARFloor Area Ratio	UBC Uniform Building Code
FEMAFederal Emergency Management Agency	USD Union Sanitary District
FFDFremont Fire Department	VTA Santa Clara Valley Transportation
FMCFremont Municipal Code	Authority
FPDFremont Police Department	WMA Waste Management Authority
FRCFamily Resource Center	ZTAZoning Text Amendment

UPCOMING MEETING AND CHANNEL 27 BROADCAST SCHEDULE

Date	Time	Meeting Type	Location	Cable Channel 27
June 22, 2010		Cancelled		
June 29, 2010 (5 th Tuesday)		No City Council Meeting		
July 6, 2010	7:00 p.m.	City Council Meeting	Council Chambers	Live
July 13, 2010	7:00 p.m.	City Council Meeting	Council Chambers	Live
July 20, 2010	TBD	Work Session	Council Chambers	Live
July 27, 2010	7:00 p.m.	City Council Meeting	Council Chambers	Live
		August Recess		
September 7, 2010	7:00 p.m.	City Council Meeting	Council Chambers	Live
September 14, 2010	7:00 p.m.	City Council Meeting	Council Chambers	Live
September 21, 2010	TBD	Work Session	Council Chambers	Live
September 28, 2010	7:00 p.m.	City Council Meeting	Council Chambers	Live
October 5, 2010	7:00 p.m.	City Council Meeting	Council Chambers	Live
October 12, 2010	7:00 p.m.	City Council Meeting	Council Chambers	Live
October 19, 2010	TBD	Work Session	Council Chambers	Live
October 26, 2010	7:00 p.m.	City Council Meeting	Council Chambers	Live
November 2, 2010	7:00 p.m.	City Council Meeting	Council Chambers	Live
November 9, 2010 7:00 p.m.		City Council Meeting	Council Chambers	Live
November 16, 2010 TBD		Work Session	Council Chambers	Live
November 23, 2010 7:00 p.m.		City Council Meeting	Council Chambers	Live
November 30, 2010 (5 th Tuesday)		No City Council Meeting		